

RULES OF THE STATE INVESTMENT COUNCIL

CHAPTER 16

RULES OF THE STATE INVESTMENT COUNCIL

Authority

N.J.S.A. 52:18A-91.

Source and Effective Date

R.1991 d.274, effective May 2, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Executive Order No. 66(1978) Expiration Date

Chapter 16, State Investment Council, expires on May 2, 1996.

Chapter Historical Note

Chapter 16, Rules of the State Investment Council, was filed and became effective prior to September 1, 1969. Subchapter 3, Classification of Funds, was added by R.1983 d.233, effective June 1, 1983. See: 15 N.J.R. 531(a), 15 N.J.R. 1038(d). Pursuant to Executive Order No. 66(1978), Chapter 16 was readopted as R.1985 d.201, effective August 5, 1985. See: 17 N.J.R. 60(b), 17 N.J.R. 1907(c).

A Governor's Waiver of Executive Order No. 66 was granted to extend the expiration date of the chapter from December 2, 1990 to May 2, 1991. See: 23 N.J.R. 26(a). Pursuant to Executive Order No. 66(1978), Chapter 16 was readopted as R.1991 d.274. See: Source and Effective Date.

See subchapter and section annotations for specific rulemaking activity.

This chapter has been recodified by R.1991 d.274, effective June 3, 1991. Below is a cross-reference chart reflecting recodification changes.

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As amended, R.1973 d.158, effective June 19, 1973.

See: 5 N.J.R. 247(c).

As amended, R.1974 d.126, effective May 21, 1974.

See: 6 N.J.R. 252(a).

As amended, R.1974 d.192, effective July 16, 1974.

See: 6 N.J.R. 328(c).

As amended, R.1975 d.11, effective January 21, 1975.

See: 7 N.J.R. 76(b).

As amended, R.1975 d.278, effective September 19, 1975.

See: 8 N.J.R. 51(a).

As amended, R.1976 d.29, effective January 28, 1976.

See: 8 N.J.R. 140(c).

As amended, R.1976 d.115, effective April 19, 1976.

See: 8 N.J.R. 262(d).

As amended, R.1976 d.290, effective September 16, 1976.

See: 8 N.J.R. 492(b).

As amended, R.1977 d.13, effective January 21, 1977.

See: 9 N.J.R. 100(d).

As amended, R.1977 d.124, effective April 11, 1977.

See: 9 N.J.R. 244(b).

As amended, R.1978 d.94, effective March 14, 1978.

See: 10 N.J.R. 175(a).

As amended, R.1978 d.180, effective May 26, 1978.

See: 10 N.J.R. 304(b).

As amended, R.1978 d.316, effective September 13, 1978.

See: 10 N.J.R. 456(b).

As amended, R.1978 d.376, effective October 24, 1978.

See: 10 N.J.R. 520(c).

As amended, R.1979 d.19, effective January 17, 1979.

See: 11 N.J.R. 105(e).

As amended, R.1979 d.94, effective March 8, 1979.

See: 11 N.J.R. 211(d).

As amended, R.1979 d.204, effective May 18, 1979.

See: 11 N.J.R. 358(b).

As amended, R.1980 d.315, effective July 16, 1980.

See: 12 N.J.R. 497(e).

As amended, R.1982 d.188, effective June 21, 1982.

See: 13 N.J.R. 620(c), 14 N.J.R. 663(a).

Subchapter 5, Classification of Funds, was recodified to Subchapter 3 by R.1991 d.274, effective June 3, 1991. See section annotations for additional rulemaking.

17:16-3.1 General provisions

(a) Funds having similar investment characteristics and objectives under their respective enabling acts shall be grouped together in any of the following classifications:

SUBCHAPTER 1. (RESERVED)

Subchapter Historical Note

Prior rulemaking activity in Subchapter 1, Definitions, repealed by R.1991 d.274, effective June 3, 1991, follows:

- 17:16-1.1 Words and phrases defined
 Amended by R.1972 d.75, effective April 19, 1972.
 See: 4 N.J.R. 109(a).

SUBCHAPTER 2. (RESERVED)

Subchapter Historical Note

Prior rulemaking activity in Subchapter 2, Amortization Procedures, repealed by R.1991 d.274, effective June 3, 1991, follows:

- 17:16-2.1 Formula method
 Amended by R.1972 d.75, effective April 19, 1972.
 See: 4 N.J.R. 109(a).

SUBCHAPTER 3. CLASSIFICATION OF FUNDS

Historical Note

All provisions of this subchapter were adopted by the State Investment Council and were filed and became effective prior to September 1, 1969. Further amendments were made as shown below:

As amended, R.1970 d.20A, effective March 3, 1970.

See: 2 N.J.R. 19(b), 2 N.J.R. 44(f).

As amended, R.1971 d.1, effective January 4, 1971.

See: 2 N.J.R. 102(c), 3 N.J.R. 30(b).

As amended, R.1972 d.50, effective March 8, 1972.

See: 4 N.J.R. 31(a), 4 N.J.R. 79(b).

As amended, R.1972 d.75, effective April 19, 1972.

See: 4 N.J.R. 109(a).

As amended, R.1972 d.98, effective May 23, 1972.

See: 4 N.J.R. 142(a).

As amended, R.1973 d.22, effective January 16, 1973.

See: 5 N.J.R. 60(a).

As amended, R.1973 d.70, effective March 12, 1973.

See: 5 N.J.R. 126(b).

1. Pension and Annuity Group;
2. Static Group;
3. Demand Group;
4. Temporary Reserve Group; and
5. Trust Group.

As amended, R.1982 d.397, effective November 1, 1982.
 See: 14 N.J.R. 329(a), 14 N.J.R. 1220(d).
 List of classification groups added.
 Recodified by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
 Stylistic changes.

17:16-3.2 Approved list

A "list of funds under the supervision of the Council" shall be maintained by the Director.

Amended by R.1982 d.397, effective November 1, 1982.
 See: 14 N.J.R. 329(b), 14 N.J.R. 1220(d).
 Pension and annuity groups changed to an approved list.
 Recodified by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
 Reference to Council approval deleted.

17:16-3.3 (Reserved)

Amended by R.1982 d.397, effective November 1, 1982.
 See: 14 N.J.R. 329(a), 14 N.J.R. 1220(d).
 Formerly contained list of funds in "Static group".

17:16-3.4 (Reserved)

Amended by R.1982 d.397, effective November 1, 1982.
 See: 14 N.J.R. 329(a), 14 N.J.R. 1220(d).
 Formerly contained list of funds in "Demand group".

17:16-3.5 (Reserved)

Amended by R.1982 d.397, effective November 1, 1982.
 See: 14 N.J.R. 329(a), 14 N.J.R. 1220(d).
 Formerly contained list of funds in "Temporary reserve group".

17:16-3.6 (Reserved)

Amended by R.1982 d.397, effective November 1, 1982.
 See: 14 N.J.R. 329(a), 14 N.J.R. 1220(d).
 Formerly contained list of funds in "Trust group".

SUBCHAPTER 4. (RESERVED)

Subchapter Historical Note

Prior rulemaking activity in Subchapter 4, Investment Control, repealed by R.1991 d.274, effective June 3, 1991, follows:

- 17:16-4.1 Purchases subject to regulations; United States Treasury obligations
 Amended by R.1971 d.159, effective September 8, 1971.
 See: 3 N.J.R. 161(b), 3 N.J.R. 211(b).

SUBCHAPTER 5. (RESERVED)

Subchapter Historical Note

Subchapter 5, Classification of Funds, was recodified to Subchapter 3 by R.1991 d.274, effective June 3, 1991.

SUBCHAPTER 6. (RESERVED)

Subchapter Historical Note

Subchapter 6, United States Treasury and Government Agency Obligations, was recodified to Subchapter 11 by R.1991 d.274, effective June 3, 1991.

SUBCHAPTER 7. (RESERVED)

Subchapter Historical Note

Subchapter 7, Corporate Obligations, was recodified to Subchapter 12 by R.1991 d.274, effective June 3, 1991.

SUBCHAPTER 8. (RESERVED)

Subchapter Historical Note

All provisions of this subchapter "Corporate Securities—Industrial Obligations" became effective prior to September 1, 1969. Amendments became effective June 1, 1971 as R.1971 d.78. See: 3 N.J.R. 91(a), 3 N.J.R. 118(b). Further amendments became effective September 8, 1971 as R.1971 d.159. See: 3 N.J.R. 161(b), 3 N.J.R. 211(b). Further amendments became effective April 19, 1972 as R.1972 d.75. See: 4 N.J.R. 109(a). Further amendments became effective April 19, 1973 as R.1972 d.75. See: 4 N.J.R. 109(a). Further amendments became effective November 20, 1974 as R.1974 d.321. See: 6 N.J.R. 495(b). Further amendments became effective April 19, 1976 as R.1976 d.116. See: 8 N.J.R. 262(e). Further amendments became effective May 20, 1976 as R.1976 d.156. See: 8 N.J.R. 314(c). Further amendments became effective December 14, 1976 as R.1976 d.402. See: 8 N.J.R. 46(b). This subchapter was repealed effective November 4, 1985 as R.1985 d.553. See: 17 N.J.R. 2093(b), 17 N.J.R. 2675(a).

SUBCHAPTER 9. (RESERVED)

Subchapter Historical Note

Prior rulemaking activity in Subchapter 9, Finance Companies—Senior Debt, repealed by R.1991 d.274, effective June 3, 1991, follows:

- 17:16-9.1 Permissible investments for pension and annuity group
 As amended, R.1972 d.75, effective April 19, 1972.
 See: 4 N.J.R. 109(a).
 As amended, R.1974 d.322, effective November 20, 1974.
 See: 6 N.J.R. 495(c).
 As amended, R.1976 d.153, effective May 19, 1976.
 See: 8 N.J.R. 313(b).
 As amended, R.1977 d.393, effective October 20, 1977.
 See: 9 N.J.R. 544(d).

- 17:16-9.2 Legal papers
As amended, R.1972 d.75, effective April 19, 1972.
See: 4 N.J.R. 109(a).
- 17:16-9.3 Selective formula recommended by the Director dated June 20, 1963, relating to senior indebtedness of finance companies
Amended by R.1972 d.75, effective April 19, 1972.
See: 4 N.J.R. 109(a).

Amended by R.1985 d.552, effective November 4, 1985.
See: 17 N.J.R. 2093(a), 17 N.J.R. 2674(b).
Amended (a): added (a)1.-(a)3.
Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Title changed.

SUBCHAPTER 10. (RESERVED)

Subchapter Historical Note

Subchapter 10, Title 11 Federal Housing Administration Mortgages, was recodified to Subchapter 55 by R.1991 d.274, effective June 3, 1991.

SUBCHAPTER 11. UNITED STATES TREASURY AND GOVERNMENT AGENCY OBLIGATIONS

Subchapter Historical Note

Subchapter 11, New Jersey State and Municipal General Obligations, was recodified to Subchapter 17 and Subchapter 6, United States Treasury and Government Agency Obligations, recodified to Subchapter 11 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

17:16-11.1 United States Treasury and Government Agency Obligations

(a) Notwithstanding the provisions of any law pertaining to legal investments, the Director shall not make any commitment to purchase securities for any fund unless such securities are of the class of securities in which such fund may be invested pursuant to these regulations; except that the Director may purchase for any pension and annuity, static, trust, demand or temporary reserve fund without regard to any limitation:

1. United States Treasury obligation;
2. United States Government Agency Obligations from a list approved by the State Investment Council; and
3. Treasury receipts, certificates of accrual, collateralized mortgage obligations or similar securities which evidence ownership of interest and/or principal of securities eligible under 1. and 2. above, provided that the Director and a member of his staff certify that the security being considered for purchase is qualitatively substantially identical to the Government securities which secure or otherwise support it.

As amended, R.1972 d.75, eff. April 19, 1972.
See: 4 N.J.R. 109(a).
As amended, R.1974 d.323, eff. November 20, 1974.
See: 6 N.J.R. 496(a).
As amended, R.1975 d.97, eff. April 8, 1975.
See: 7 N.J.R. 241(a).

SUBCHAPTER 12. CORPORATE OBLIGATIONS

Subchapter Historical Note

Subchapter 12, Public Authority Revenue Obligations, was recodified to Subchapter 18 and Subchapter 7, Corporate Obligations, was recodified to Subchapter 12 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

17:16-12.1 Permissible investments

The director may invest and reinvest the moneys of any fund in corporate obligations which meet the standards set forth in N.J.A.C. 17:16-12.2 below.

As amended, R.1972 d.75, eff. April 19, 1972.
See: 4 N.J.R. 109(a).
As amended, R.1976 d.152, eff. May 19, 1976.
See: 8 N.J.R. 313(a).
Amended by R.1985 d.553, effective November 4, 1985.
See: 17 N.J.R. 2093(a), 17 N.J.R. 2675(b).
Substantially amended.
Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Standards deleted and reference to 12.2 added.

17:16-12.2 Pension and annuity group; static group; trust group

(a) The Director may invest or reinvest the moneys of any pension and annuity or trust group fund in corporate obligations provided that:

1. The issue has been registered with the Securities and Exchange Commission, except that this requirement may be waived by the State Investment Council;
2. The obligor is incorporated under the laws of the United States or any State thereof or of the District of Columbia;
3. The obligor is not in default as to the payment of principal or interest upon any of its outstanding obligations;
4. The obligor has a stockholders' equity, (consisting of the sum of equity accounts, capital surplus and earned surplus) of at least \$50 million; and furthermore the long term debt ratio (defined as the ratio of long term debt to the sum of stockholders' equity and long term debt) of the obligor shall be less than 60 percent, except that in the case of telephone utilities the debt ratio shall be less than 60 percent;

5. The obligor has a credit rating of Baa/BBB or higher by Moody's Investors Service, Inc. and Standard & Poor's Corporation, except that one rating is sufficient if only one rating is available. If a rating has not been obtained from either service, the issue may be purchased if the publicly issued outstanding debt of the issuer carries a Baa/BBB rating or higher. Subsequent to purchase, if ratings fall below Baa/BBB for such issues, they do not have to be sold, and they may be exchanged with issues of credits rated lower than Baa/BBB if the credits received in exchange are, on balance, similarly rated.

6. The total amount of debt issues purchased or acquired in a fund of any one corporation shall not exceed 25 percent of the outstanding long term debt of the company, and not more than 25 percent of the issue at the time of issue.

As amended, R.1972 d.75, eff. April 19, 1972.

See: 4 N.J.R. 109(a).

Amended by R.1985 d.553, effective November 4, 1985.

See: 17 N.J.R. 2093(a), 17 N.J.R. 2675(b).

(a)1-(a)5, added.

Amended by R.1990 d.304, effective June 18, 1990.

See: 22 N.J.R. 1042(b), 22 N.J.R. 1944(b).

In (a)4, increased long term debt ratio from 50 to 60 percent and telephone debt ratio from 55 to 60 percent.

Recodified by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Text at (a)6 added.

17:16-12.3 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have obtained, in all cases, a certification signed by a member of the Division's staff and endorsed by the Director stating that, in their opinion, the security under consideration qualifies under the requisites of this subchapter; and

1. With respect to issues registered with the Securities and Exchange Commission;

i. On new issues, a prospectus describing the issue;

ii. On existing issues, a copy of the description of the issue as contained in Moody's Manuals or in the Standard & Poor's or in any other corporation records publication or service published for the use of and accepted as reliable by investors in such obligations;

2. With respect to issues not registered with the Securities and Exchange Commission;

i. On new issues, in the case of private placements:

(1) An offering memorandum describing the terms of the issue and the business and operations of the issuer;

(2) A written approving opinion from the Attorney General to the effect that the purchase agreement is satisfactory as to form and substance;

(3) At the closing for the purchase of the private placement legal opinions of counsel for the purchaser

and counsel for the issuer, which opinions shall include a statement to the effect that the bonds are properly authorized and valid obligations of the issuer;

ii. On existing issues, in the case of issues which were originally offered to the public:

(1) A copy of the description of the issue as contained in Moody's Manuals or Standard & Poor's Corporation records or in any other publication or service published for the use of and accepted as reliable by investors in such obligations;

iii. On existing issues, in the case of issues which were originally placed privately:

(1) A copy of the original offering memorandum describing the terms of the issue and the business and operations of the issuer at the time of the original issue;

(2) A copy of the purchase agreement for the issue, together with all amendments thereto;

(3) A copy of the form 10-K of the issuer which was most recently filed with the Securities and Exchange Commission, or if the company does not file for 10-K reports, then the most recent audited financial statement;

(4) Representations, in writing, from the seller to the Division to the effect that there are no restrictions on the sale of the bonds to funds managed by the Division; no registration of the issue with the Securities and Exchange Commission is required if the bonds are sold to funds managed by the Division; and the seller purchased the bonds directly from the issuer when the issue was originally sold. In the event other owners have intervened between the issuer and the seller, the seller must substitute for the last requirement mentioned in the first sentence above, the representation that no such intervening transaction required registration of the securities with the Securities and Exchange Commission. The seller may substitute for these representations a no-action letter of the Securities and Exchange Commission regarding any requirements to register the bonds;

(5) A written approving opinion from the Attorney General that the representations or no-action letter required by (4) above are satisfactory; and

(6) Approval of the State Investment Council.

As amended, R.1972 d.75, eff. April 19, 1972.

See: 4 N.J.R. 109(a).

As amended, R.1974 d.191, eff. July 16, 1974.

See: 6 N.J.R. 328(b).

Amended by R.1985 d.553, effective November 4, 1985.

See: 17 N.J.R. 2093(b), 17 N.J.R. 2675(a).

Old section "Temporary reserve group; demand group" repealed and old 7.4 recodified with amendments.

Recodified by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

17:16-12.4 (Reserved)

As amended, R.1972 d.75, eff. April 19, 1972.

See: 4 N.J.R. 109(a).

As amended, R.1976 d.291, eff. September 16, 1976.

See: 8 N.J.R. 493(a).

As amended, R.1976 d.401, eff. December 14, 1976.

See: 8 N.J.R. 46(a).

Repealed by R.1985 d.553, effective November 4, 1985.

See: 17 N.J.R. 2093(b), 17 N.J.R. 2675(a).

Old 7.4 recodified to 7.3.

Recodified by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

SUBCHAPTER 13. (RESERVED)**Subchapter Historical Note**

Subchapter 13, Commercial Paper, was recodified to Subchapter 31 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

**SUBCHAPTER 14. FINANCE COMPANIES;
SENIOR DEBT****Authority**

N.J.S.A. 52:18A-91.

Source and Effective Date

R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter Historical Note

Subchapter 14, International Bank for Reconstruction and Development, was repealed and Subchapter 14, Finance Companies; Senior Debt, was added as new by R.1991 d.274, effective June 3, 1991.

17:16-14.1 Permissible investments

The Director may invest and reinvest the moneys of any eligible fund in the debt securities of finance companies as is set forth in this subchapter.

17:16-14.2 Pension and annuity group; static group; trust group

(a) The Director may invest or reinvest the moneys of any pension and annuity fund, static group fund, trust group fund, Common Pension Fund B or, where maturities are less than a year, The State of New Jersey Cash Management Fund, in the debt securities of finance companies provided that:

1. The issue has been registered with the Securities and Exchange Commission, except that this requirement may be waived by the State Investment Council;

2. The obligor is incorporated under the laws of the United States or any State thereof or of the District of Columbia;

3. The obligor is not in default as to the payment of principal or interest upon any of its outstanding obligations;

4. The obligor has a capitalization of at least \$200 million;

5. The obligor or its predecessors shall have had an average pre-tax interest coverage of 1.00 times for the last five reported fiscal years;

6. The obligor has a credit rating of A/A or higher by Moody's Investors Service, Inc. and Standard & Poor's Corporation, excepting that one rating is sufficient if only one rating is available. If a rating has not been obtained from either service, the issue may be purchased if the publicly issued outstanding debt of the issuer carries a A/A rating or higher. Subsequent to purchase, if ratings fall below A/A for such issues, they do not have to be sold, and they may be exchanged with issues of credits rated lower than A/A if the credits received in exchange are, on balance, similarly rated;

7. The total amount of debt issues purchased or acquired of any one corporation shall not exceed 10 percent of the outstanding debt of the corporation, and not more than 10 percent of any one issue may be purchased at the time of issue, except that these requirements may be waived by the State Investment Council.

8. Not more than two percent of the assets at the time of purchase of any one fund shall be invested in senior debt of any one company maturing more than 12 months from date of purchase.

17:16-14.3 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have obtained, in all cases, a certification signed by a member of the Division's staff and endorsed by the Director stating that, in their opinion, the security under consideration qualifies under the requisites of this subchapter and the Division shall have received:

1. With respect to issues registered with the Securities and Exchange Commission:

i. On new issues, a prospectus describing the issue; and

ii. On existing issues, a copy of the description of the issue as contained in Moody's Manuals or in the Standard & Poor's or in any other corporation records publication or service published for the use of and accepted as reliable by investors in such obligations;

2. With respect to issues not registered with the Securities and Exchange Commission:

i. On new issues, in the case of private placements:

(1) An offering memorandum describing the terms of the issue and the business and operations of the issuer;

(2) A written approving opinion from the Attorney General to the effect that the purchase agreement is satisfactory as to form and substance;

(3) At the closing for the purchase of the private placement, legal opinions of counsel for the purchaser and counsel for the issuer, which opinions shall include a statement to the effect that the bonds are properly authorized and valid obligations of the issuer;

ii. On existing issues, in the case of issues which were originally offered to the public, a copy of the description of the issue as contained in Moody's Manuals or Standard & Poor's Corporation records or in any other publication or service published for the use of and accepted as reliable by investors in such obligations;

iii. On existing issues, in the case of issues which were originally placed privately:

(1) A copy of the original offering memorandum describing the terms of the issue and the business and operations of the issuer at the time of the original issue;

(2) A copy of the purchase agreement for the issue, together with all amendments thereto;

(3) A copy of the form 10-K of the issuer which was most recently filed with the Securities and Exchange Commission, or if the company does not file form 10-K reports, then the most recent audited financial statement;

(4) Representation, in writing, from the seller to the Division to the effect that:

(A) There are no restrictions on the sale of the bonds to funds managed by the Division;

(B) No registration of the issue with the Securities and Exchange Commission is required if the bonds are sold to funds managed by the Division; and

(C) The seller purchased the bonds directly from the issuer when the issue was originally sold or, if other owners have intervened between the issuer and the seller, that no such intervening transaction required registration of the securities with the Securities and Exchange Commission; or

(D) In substitution for the representations in (a)2iii(4)(A)-(C) above a no-action letter of the Securities and Exchange Commission regarding any requirements to register the bonds;

(5) A written approving opinion from the Attorney General that the representations or no-action letter required by (a)2iii(4) above are satisfactory; and

(6) Approval of the State Investment Council.

SUBCHAPTER 15. BANK DEBENTURES

Authority

N.J.S.A. 52:18A-91.

Source and Effective Date

R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Subchapter Historical Note

Subchapter 15, Capehart Mortgages, was repealed and Subchapter 15, Bank Debentures, was added as new by R.1991 d.274, effective June 3, 1991.

17:16-15.1 Permissible investments

The Director may invest and reinvest the moneys of any eligible fund in the debt securities of banks as is set forth in this subchapter.

17:16-15.2 Pension and annuity group; static group; trust group

(a) The Director may invest or reinvest the moneys of any pension and annuity fund, static group fund, trust group fund, Common Pension Fund B or, where maturities are less than a year, The State of New Jersey Cash Management Fund, in the debt securities of banks provided that:

1. The issue has been registered with the Securities and Exchange Commission, except that this requirement may be waived by the State Investment Council;

2. The obligor is incorporated under the laws of the United States or any State thereof or of the District of Columbia;

3. The total amount of debt issues purchased or acquired of any one corporation shall not exceed 10 percent of the outstanding debt of the corporation and not more than 10 percent of any one issue may be purchased at the time of issue, except that these requirements may be waived by the State Investment Council;

4. The obligor:

i. Is not in default as to the payment of principal or interest upon any of its outstanding obligations;

ii. Has common equity (including surplus and retained earnings) of at least \$200 million;

iii. The issuer, at the date of its last published balance sheet preceding the date of investment, was in

conformance with all capital requirements as stipulated by:

(1) The Federal Reserve Board, in the case of United States banks; and

(2) The appropriate national regulatory body, in the case of foreign-headquartered banks.

5. Has a credit rating of A/A or higher by Moody's Investors Service, Inc. and Standard & Poor's Corporation, excepting that one rating is sufficient if only one rating is available. If a rating has not been obtained from either service, the issue may be purchased if the publicly issued outstanding debt of the issuer carries a A/A rating or higher. Subsequent to purchase, if ratings fall below A/A for such issues, they do not have to be sold, and they may be exchanged with issues of credits rated lower than A/A if the credits received in exchange are, on balance, similarly rated.

17:16-15.3 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have obtained, in all cases, a certification signed by a member of the Division's staff and endorsed by the Director stating that, in their opinion, the security under consideration qualifies under the requisites of this subchapter and the Division shall have received:

1. With respect to issues registered with the Securities and Exchange Commission:

i. On new issues, a prospectus describing the issue;

ii. On existing issues, a copy of the description of the issue as contained in Moody's Manuals or in the Standard & Poor's or in any other corporation records publication or service published for the use of and accepted as reliable by investors in such obligations;

2. With respect to issues not registered with the Securities and Exchange Commission:

i. On new issues, in the case of private placements:

(1) An offering memorandum describing the terms of the issue and the business and operations of the issuer;

(2) A written approving opinion from the Attorney General to the effect that the purchase agreement is satisfactory as to form and substance; and

(3) At the closing, for the purchase of the private placement, legal opinions of counsel for the purchaser and counsel for the issuer, which opinions shall include a statement to the effect that the bonds are properly authorized and valid obligations of the issuer;

ii. On existing issues, in the case of issues which were originally offered to the public, a copy of the description of the issue as contained in Moody's Manuals or Standard & Poor's Corporation records or in any other publication or service published for the use of and accepted as reliable by investors in such obligations;

iii. On existing issues, in the case of issues which were originally placed privately;

(1) A copy of the original offering memorandum describing the terms of the issue and the business and operations of the issuer at the time of the original issue;

(2) A copy of the purchase agreement for the issue, together with all amendments thereto;

(3) A copy of the form 10-K of the issuer which was most recently filed with the Securities and Exchange Commission, or if the company does not file form 10-K reports, then the most recent audited financial statement;

(4) Representation, in writing, from the seller to the Division to the effect that:

(A) There are no restrictions on the sale of the bonds to funds managed by the Division;

(B) No registration of the issue with the Securities and Exchange Commission is required if the bonds are sold to funds managed by the Division; and

(C) The seller purchased the bonds directly from the issuer when the issue was originally sold or, if other owners have intervened between the issuer and the seller, that no such intervening transaction required registration of the securities with the Securities and Exchange Commission; or

(D) In substitution for these representations in (a)2iii(4)(A)-(C) above a no-action letter of the Securities and Exchange Commission regarding any requirements to register the bonds;

(5) A written approving opinion from the Attorney General that the representations or no-action letter required by (a)2iii(4) above are satisfactory; and

(6) Approval of the State Investment Council.

SUBCHAPTER 16. CANADIAN OBLIGATIONS

Subchapter Historical Note

Subchapter 16, United States Government Insured Merchant Marine Bonds, was repealed and Subchapter 23, Canadian Obligations, was recodified to Subchapter 16 by R.1991 d.274, effective June 3, 1991. See section annotations for additional rulemaking.

17:16-16.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any pension and annuity group fund including common Pension Fund B and Common Pension Fund D in obligations issued by any company incorporated within the Dominion of Canada or which are the direct obligations of or are unconditionally guaranteed as to principal and interest by the Government of Canada, or by a province thereof and which are rated A or better by Moody's Investors Service and Standard & Poor's Corporation. All such securities must be payable as to both principal and interest in United States dollars.

Recodified by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
 Council approval of each issuer deleted; minimum rating added; investment in Canadian obligations specified.

17:16-16.2 Limitations

(a) Not more than 10 percent of the assets of any pension and annuity group fund shall be invested in Canadian obligations, whether direct or guaranteed.

(b) Not more than two percent of the assets of any pension and annuity group fund shall be invested in Canadian obligations, whether direct or guaranteed, of any one issuer.

(c) The total amount of debt issues purchased or acquired of any one issuer on the approved list shall not exceed 10 percent of the outstanding debt of the issuer, and not more than the greater of \$10 million or 10 percent of any one issue may be purchased at the time of issue, except that these requirements may be waived by the State Investment Council.

As amended, R.1972 d.75, effective April 19, 1972.
 See: 4 N.J.R. 109(a).
 As amended, R.1976 d.155, effective May 19, 1976.
 See: 8 N.J.R. 314(b).
 Recodified by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
 Stylistic changes.

17:16-16.3 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the director shall have obtained:

1. A prospectus describing the issue; and
2. A certification signed by two members of the division's staff and endorsed by the director stating that each proviso enumerated under section 1 of this subchapter had been checked by them and that in their opinion the security under consideration qualified as a satisfactory investment as outlined by section 1 of this subchapter, and

(b) In the case of an issue not registered with the Securities and Exchange Commission, the director shall obtain, in addition to the above:

1. Such other documents or opinions which the Attorney General may require; and
2. A written approving opinion from the Attorney General to the effect that all such documents and opinions received by the Director are satisfactory as to form and substance.

As amended, R.1972 d.75, effective April 19, 1972.
 See: 4 N.J.R. 109(a).

17:16-16.4 Approved Canadian Obligations List¹

(a) The approved Canadian obligations list includes the following:

1. Government of Canada.
2. Provinces of Canada (including guaranteed obligations):
 - i. Alberta;
 - ii. British Columbia;
 - iii. Manitoba;
 - iv. Nova Scotia;
 - v. Ontario;
 - vi. Saskatchewan.
3. Corporate Obligations of Canada:
 - i. Bell Telephone Company of Canada;
 - ii. International Nickel Company of Canada, Ltd.

Amended by R.1972 d.75, effective April 19, 1972.
 See: 4 N.J.R. 109(a).

¹ Approved at meeting of State Investment Council on March 7, 1968 and ordered appended to the minutes of March 7, 1968.

SUBCHAPTER 17. NEW JERSEY STATE AND MUNICIPAL GENERAL OBLIGATIONS

Subchapter Historical Note

Subchapter 17, Common and Preferred Stock and Issues Convertible into Common Stock, was recodified to Subchapter 41 and Subchapter 11, New Jersey State and Municipal Government Obligations, was recodified from Subchapter 11 to Subchapter 17 by R.1991 d.274, effective June 3, 1991.

17:16-17.1 Applicable funds

The director may invest and reinvest moneys of any pension and annuity group, or other fund in the obligations of the State of New Jersey or any municipal or political subdivision of this State as set forth in this subchapter.

As amended, R.1975 d.363, effective December 11, 1975.

See: 7 N.J.R. 51(b).

Recodified by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Provisions amended to include all funds.

17:16-17.2 Investment prerequisites

(a) The Director may invest moneys of any eligible fund provided that:

1. The obligor is not in default as to the payment of principal or interest upon any of its outstanding obligations;

2. The obligor has a credit rating of A/A or higher by Moody's Investors Service, Inc. and Standard & Poor's Corporation, excepting that one rating is sufficient if only one rating is available. If a rating has not been obtained from either service, the issue may be purchased if the publicly issued outstanding debt of the issuer carries a A/A rating or higher. Subsequent to purchase, if ratings fall below A/A for such issues, they do not have to be sold, and they may be exchanged with issues of credits rated lower than A/A if the credits received in exchange are, on balance, similarly rated;

3. The total amount of debt issues purchased or acquired of any one political entity shall not exceed 10 percent of the outstanding debt of the entity, and not more than 10 percent of any one issue, serial note or maturity may be purchased in the aggregate by all eligible funds; and

4. Not more than 2 percent of the assets at the time of purchase of any one fund shall be invested in senior debt of any one political entity maturing more than 12 months from date of purchase.

(b) Investment made pursuant to this subchapter shall comply with Federal arbitrage regulations.

As amended, R.1972 d.75, effective April 19, 1972.

See: 4 N.J.R. 109(a).

Recodified by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Deletion of written affidavit requirements; Director given authority to invest funds based on financial status of obligor and amount of debt purchased; Federal arbitrage regulations incorporated.

17:16-17.3 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this office, the Director shall have obtained, in all cases, a certification signed by a member of the Division's staff and endorsed by the Director stating that, in their opinion, the security under consideration qualifies under the requisites of this article and the Division shall have received:

1. On new issues, a prospectus describing the issue; and

2. On existing issues, a copy of the description of the issue as contained in Moody's or in the Standard & Poor's or in any other financial records publication or service accepted as reliable by investors for such obligations.

New Rule, R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

17:16-17.4 Purchases for Temporary Reserve Group, Demand and Static Funds

The Director may invest and reinvest any moneys of an eligible fund in the obligation of any State or political subdivision thereof provided that such investment in tax exempt securities is required in order to comply with Federal arbitrage regulations and further provided that such investment qualifies under this subchapter and that the obligation was issued with an unqualified approving opinion of recognized bond counsel to the effect that the obligations have been duly authorized and issued and are legal, valid and binding obligations of the issuer. If the obligation is guaranteed by the Federal government, the above requirement may be waived.

New Rule, R.1982 d.192, effective June 4, 1982.

See: 13 N.J.R. 526(b), 14 N.J.R. 663(b).

Recodified by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Eligible funds broadened; tax-exempt bond purchase specified; minimum quality standard and maximum level of purchases set.

SUBCHAPTER 18. PUBLIC AUTHORITY REVENUE OBLIGATIONS

Subchapter Historical Note

Subchapter 18, Inter-American Development Bank, was repealed and Subchapter 12, Public Authority Revenue Obligations, was recodified to Subchapter 18 by R.1991 d.274, effective June 3, 1991.

17:16-18.1 Definitions

The following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Public authority" means any State or any political subdivision thereof, any authority, department, district or commission, or any agency or instrumentality of any of the foregoing, or any agency or instrumentality of the Federal Government, or a commission or other public body created by an Act of Congress or pursuant to a compact between any two or more States.

"Revenue obligations" means any bonds or other interest-bearing obligations of a public authority, the principal and interest of which are by their terms payable from the revenues derived from a utility or enterprise owned or operated by the public authority which issued such bonds or obligations, or by an agency or instrumentality thereof.

Recodified by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
 "Enterprise" added to "Revenue obligations".

17:16-18.2 Applicable funds

(a) Subject to the limitations contained in N.J.A.C. 17:16-18.3, the Director may invest and reinvest the moneys of any pension and annuity group fund or other fund in the revenue obligations of any public authority provided that:

1. Such investment in tax exempt securities is required to comply with Federal arbitrage regulations;
2. Such obligations are rated A or better by Moody's Investors Service and the Standard and Poor Corporation; and
3. No more than 10 percent of any one issue, serial note or maturity may be purchased in the aggregate by all eligible funds.

Amended by R.1982 d.192, effective June 4, 1982.
 See: 13 N.J.R. 526(b), 14 N.J.R. 663(b).
 (b) added.

Recodified by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Eligible funds broadened; tax-exempt bond purchase specified; minimum quality standard and maximum level of purchases set.

17:16-18.3 Limitations

Not more than two percent of the assets of any eligible fund described in N.J.A.C. 17:16-18.2 shall be invested in the obligations of any one public authority.

Amended by R.1982 d.192, effective June 4, 1982.
 See: 13 N.J.R. 526(b), 14 N.J.R. 663(b).

Added "pension and annuity group".
 Recodified by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
 Definition of eligible funds broadened.

17:16-18.4 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the Director shall have received:

1. A written opinion from Moody's Investors Service to the effect that such obligations qualify as legal investments for savings banks of this State; and
2. A written opinion from the Attorney General that the purchase of such obligations is authorized by the provisions of Chapter 270, P.L. 1950, as amended and supplemented.

(b) Subsequent to the purchase, the Director shall obtain:

1. An unqualified approving opinion of recognized bond counsel to the effect that the obligations have been duly authorized and issued and are the legal, valid and binding obligations of the issuer;
2. Such other documents or opinions which the Attorney General may require; and

3. A written approving opinion from the Attorney General to the effect that all such documents and opinions received by the Director are satisfactory as to form and substance.

Amended by R.1972 d.75, effective April 19, 1972.
 See: 4 N.J.R. 109(a).

SUBCHAPTER 19. COLLATERALIZED NOTES AND MORTGAGES

Subchapter Historical Note

All provisions of this Subchapter 19, Title II Section 203B Federal Housing Administration Mortgages were adopted pursuant to authority of N.J.S.A. 52:18A-89 and were filed and became effective March 14, 1975, as R.1975 d.67. See: 7 N.J.R. 180(d). Subchapter 19, Title II Section 203(B) Federal Housing Administration Mortgages, was repealed and Subchapter 40, Collateralized Notes and Mortgages, was recodified to Subchapter 19 by R.1991 d.274, effective June 3, 1991. Prior annotations were as follows:

- 17:16-19.3 Limitations
 Amended by R.1970 d.34B, effective April 2, 1970.
 See: 2 N.J.R. 57(d).
- 17:16-19.4 Legal papers
 Amended by R.1970 d.137, effective November 13, 1970.
 See: 2 N.J.R. 86(e), 2 N.J.R. 102(d).
- 17:16-19.5 Qualifications of mortgage bankers
 Amended by R.1972 d.182, effective September 18, 1972.
 See: 4 N.J.R. 249(b).
- 17:16-19.6 Qualifications of commercial banks
 Amended by R.1972 d.182, effective September 18, 1972.
 See: 4 N.J.R. 249(b).

17:16-19.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, the director may invest or reinvest the moneys of any pension and annuity group in securities which are fully collateralized by high quality marketable debt securities provided:

1. The obligor:
 - i. Is incorporated or chartered under the laws of the United States or any state thereof or the District of Columbia;
 - ii. Is not in default as to the payment of principal or interest upon any of its outstanding obligations.
2. The collateral:
 - i. Must consist of obligations of the Government National Mortgage Association whose market value at the end of each quarter of each year is equal to 150 percent of the principal amount then outstanding;
 - ii. Must be fully maintained and not under the direct control of the issuer of the obligation, but under

the control of a trustee incorporated in the United States.

3. No amount in excess of one-third of any one issue may be purchased;

4. Not more than two percent of the assets of any one fund at the time or purchase shall be invested in the obligations of any one company; and

5. The issue must be rated A or better by Standard and Poor's Corporation and Moody's Investors Service, Inc., excepting that one rating is sufficient if only one rating is available.

As amended, R.1982 d.191, eff. June 21, 1982.

See: 13 N.J.R. 528(a), 14 N.J.R. 663(c).

(a) "debt" added; (a)2i: deleted "be of ... regulations" and replaced with "consist outstanding".

17:16-19.2 Legal papers

(a) Prior to any commitment to purchase obligations of the type described in this subchapter, the director shall have obtained:

1. A prospectus or offering circular describing the issue; and

2. A certification signed by two members of the Division's staff and endorsed by the Director stating that each proviso enumerated under N.J.A.C. 17:16-19.1 had been checked by them and that in their opinion the security under consideration qualified as a satisfactory investment as outlined by N.J.A.C. 17:16-19.1;

3. In the case of an issue not registered with the Securities and Exchange Commission, the director shall obtain, in addition to the above:

i. Such other documents or opinions which the Attorney General may require; and

ii. A written approving opinion from the Attorney General to the effect that all such documents and opinions received by the director are satisfactory as to form and substance.

SUBCHAPTER 20. INTERNATIONAL GOVERNMENT AND AGENCY OBLIGATIONS

Authority

N.J.S.A. 52:18A-91.

Source and Effective Date

R.1990 d.7, effective January 2, 1990.
See: 21 N.J.R. 3262(a), 22 N.J.R. 60(b).

Subchapter Historical Note

Subchapter 47, International Government and Agency Obligations, was recodified to Subchapter 20 by R.1991 d.274, effective June 3, 1991. Subchapter 20 was "Title III Section 501(B) Veterans Administrative Mortgages." Prior annotations were:

- 17:16-20.4 Legal papers
Amended by R.1970 d.137, effective November 13, 1970.
See: 2 N.J.R. 86(e), 2 N.J.R. 102(d).
- 17:16-20.5 Qualifications of commercial banks
Amended by R.1972 d.182, effective September 18, 1972.
See: 4 N.J.R. 249(b).

17:16-20.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest the moneys of any pension and annuity group fund except the Consolidated Police and Firemen's Pension Fund, in:

1. Direct obligations of sovereign governments;
2. Obligations of political subdivisions of an approved sovereign government;
3. Obligations of the sovereign's agencies which are unconditionally guaranteed as to principal and interest by the sovereign's full faith and credit;
4. Obligations of international agencies which are directly backed by the collective credit of regional countries; and
5. Obligations of agencies of the Canadian Government or Canadian Provinces which qualify under N.J.A.C. 17:16-16.

(b) The Director shall submit a list of international governments, their subdivisions and their agencies, and international agencies to the Council for its approval. Such list may be amended or enlarged from time to time by the Council and shall constitute the "Approved List of International Governments and Agencies."

(c) The Director shall only select issues of international government and agency obligations from the "Approved List" for purchase by the pension and annuity group, including Common Pension Fund D.

Amended by R.1991 d.386, effective August 5, 1991.

See: 23 N.J.R. 1775(b), 23 N.J.R. 2344(a).

In (a)2, added Common Pension Fund D.

Amended by R.1992 d.274, effective July 6, 1992.

See: 24 N.J.R. 1690(a), 24 N.J.R. 2464(a).

Revised text.

17:16-20.2 Limitations

(a) Not more than one percent of the assets of any pension and annuity group fund shall be invested in any one issuer of international government and agency obligations, whether direct or guaranteed.

(b) All international government and agency obligations must be rated at least double-A by either Moody's Investors Service, Inc. or Standard & Poor's Corporation or have equivalent ratings.

(c) The total amount of debt issues purchased or acquired of any one issuer on the approved list shall not exceed two percent of the outstanding debt of the issuer, and not more than 10 percent of any one issue may be purchased at the time of issue, except that these requirements may be waived by the State Investment Council.

Amended by R.1991 d.386, effective August 5, 1991.
See: 23 N.J.R. 1775(b), 23 N.J.R. 2344(a).

Deleted prior (a); recodified (b)-(d) as (a)-(c). In (a), added "any one issuer of". In (b), changed rating from "Aaa/AAA" to "Aa/AA".
Amended by R.1994 d.445, effective September 6, 1994.
See: 26 N.J.R. 2751(a), 26 N.J.R. 3742(a).

17:16-20.3 Legal papers

(a) Prior to any commitments to purchase obligations of the type described in this subchapter, the Director shall have obtained a public prospectus or circular describing the issue.

(b) In the case of an issue which is privately placed, the Director shall obtain, in addition to the requirements of (a) above:

1. Such other documents or opinions which the Attorney General may require; and
2. A written approving opinion from the Attorney General to the effect that all such documents and opinions received by the Director are satisfactory as to form and substance.

Amended by R.1992 d.274, effective July 6, 1992.
See: 24 N.J.R. 1690(a), 24 N.J.R. 2464(a).

17:16-20.4 (Reserved)

Repealed by R.1991 d.386, effective August 5, 1991.
See: 23 N.J.R. 1775(b), 23 N.J.R. 2344(a).

SUBCHAPTER 21. U.S. TREASURY FUTURES CONTRACTS

Subchapter Historical Note

Subchapter 21, Bank Debentures, added by R.1990 d.306, was repealed and Subchapter 50, U.S. Treasury Futures Contracts, was recodified to Subchapter 21 by R.1991 d.274, effective June 3, 1991. Prior annotations in Subchapter 21 were as follows:

- 17:16-21.1 Permissible investments for pension and annuity group
Amended by R.1976 d.154, effective May 19, 1976.
See: 8 N.J.R. 314(a).
- 17:16-21.2 Legal papers
Amended by R.1972 d.75, effective April 19, 1972.
See: 4 N.J.R. 109(a).

17:16-21.1 Definition of U.S. Treasury Futures Contract

As used in this subchapter, a "U.S. Treasury Futures Contract" is a legal agreement between a buyer and a seller in which the seller agrees to deliver and the buyer agrees to take delivery of a specified quantity of Treasury securities at a specified price (future price) at a stated time in the future (delivery date). Prices are determined by competitive bids on the floor of the Chicago Board of Exchange. The terms of the contract are standardized and the Chicago Board of Exchange Clearinghouse takes the opposite side to each cleared transaction.

17:16-21.2 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may purchase and sell U.S. Treasury Futures Contracts for the purpose of hedging U.S. Treasury Securities held in Common Pension Fund B.

(b) Any U.S. Treasury Futures Contract purchased or sold shall be listed on the Chicago Board of Trade.

(c) The Director may deliver U.S. Treasury Securities to satisfy contractual obligations pursuant to the Division of Investment's purchase and sale of U.S. Treasury Futures Contracts.

17:16-21.3 Limitations

(a) Net purchases of U.S. Treasury Futures Contracts shall not exceed the amount equal to 10 percent of the book value of Common Pension Fund B's underlying U.S. Treasury Bond holdings.

(b) Only Primary Government Securities Dealers may be used for executing transactions in U.S. Treasury Futures Contracts.

SUBCHAPTER 22. (RESERVED)

Subchapter Historical Note

Subchapter 22, Common Stocks and Convertible Securities, was recodified to Subchapter 42 by R.1991 d.274, effective June 3, 1991.

SUBCHAPTER 23. (RESERVED)

Subchapter Historical Note

Subchapter 23, Canadian Obligations, was recodified to Subchapter 16 by R.1991 d.274, effective June 3, 1991.

SUBCHAPTER 24. (RESERVED)

Subchapter Historical Note

Subchapter 24, United States Government Obligations, was repealed by R.1991 d.274, effective June 3, 1991. Prior amendments follow:

- 17:16-24.3 Legal papers
Amended by R.1970 d.34A, effective April 2, 1970.
See: 2 N.J.R. 57(e).
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SUBCHAPTER 25. (RESERVED)

Subchapter Historical Note

Subchapter 25, Three-party Agreements; United States Government, was repealed by R.1991 d.274, effective June 3, 1991.

SUBCHAPTER 26. (RESERVED)

Subchapter Historical Note

Subchapter 26, Three-party Agreements; Corporate, was repealed by R.1991 d.274, effective June 3, 1991. Prior annotations follow:

- 17:16-26.1 Permissible investments for pension and annuity group
Amended by R.1972 d.182, effective September 18, 1972.
See: 4 N.J.R. 249(b).
- 17:16-26.2 Limitations
Amended by R.1972 d.182, effective September 18, 1972.
See: 4 N.J.R. 249(b).
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SUBCHAPTER 27. (RESERVED)

Subchapter Historical Note

Subchapter 27, Certificates of Deposit, was recodified to Subchapter 32 by R.1991 d.274, effective June 3, 1991.

SUBCHAPTER 28. (RESERVED)

Subchapter Historical Note

Subchapter 28, Title II Federal Housing Administration—Insured Mortgages; Multifamily, was recodified to Subchapter 53 by R.1991 d.274, effective June 3, 1991.

SUBCHAPTER 29. (RESERVED)

Subchapter Historical Note

Subchapter 29, Title II Federal Housing Administration Insured Construction Mortgages; Multifamily, was recodified to Subchapter 54 by R.1991 d.274, effective June 3, 1991.

SUBCHAPTER 30. (RESERVED)

Subchapter Historical Note

Subchapter 30, Minimum Legal Requirements, was repealed by R.1991 d.274, effective June 3, 1991.

SUBCHAPTER 31. COMMERCIAL PAPER

Subchapter Historical Note

Subchapter 31, State of New Jersey Cash Management Fund, was recodified to Subchapter 54 and Subchapter 13, Commercial Paper, was recodified to Subchapter 31 by R.1991 d.274, effective June 3, 1991.

17:16-31.1 Definition

As used in this subchapter, “commercial paper” shall mean secured or unsecured promissory notes.

Amended by R.1969 d.32, effective Dec. 19, 1969.
See: 1 N.J.R. 24(b), 2 N.J.R. 44(e).

17:16-31.2 Permissible investments

(a) Subject to the maturity limitations contained in this subchapter, the Director may invest and reinvest the moneys of any fund in “prime” rated commercial paper which is not in default as to either principal or interest when acquired and which has been issued by a company incorporated within and transacting business within the United States.

(b) The Director shall submit a list of issuers of commercial paper to the Council for its approval. Such list may be amended or enlarged from time to time subject to the Council’s approval and shall be designated the “Approved List of Issuers of Commercial Paper”.

As amended, R.1972 d.75, eff. April 19, 1972.
See: 4 N.J.R. 109(a).

17:16-31.3 All funds

The Director may purchase “prime commercial paper” for any fund, including the State of New Jersey Cash Management Fund, providing the maturity purchased does not exceed 270 days.

Repeal and New Rule, R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

17:16-31.4 (Reserved)

Repealed by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

17:16-31.5 Legal papers

Prior to any commitment to purchase commercial paper, the director shall obtain a certificate or other evidence that such commercial paper is rated A-1 by "Standard and Poor's Commercial Paper Division".

As amended, R.1969 d.32, eff. December 19, 1969.
 See: 1 N.J.R. 24(b), 2 N.J.R. 44(e).
 As amended, R.1973 d.125, eff. May 10, 1973.
 See: 5 N.J.R. 204(b).
 As amended, R.1974 d.218, eff. August 8, 1974.
 See: 6 N.J.R. 361(c).
 As amended, R.1975 d.236, eff. August 6, 1975.
 See: 7 N.J.R. 442(b).
 Repealed by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

conformance with all capital requirements as stipulated by the Federal Reserve Board, in the case of United States banks, and the appropriate national regulatory body, in the case of foreign-headquartered banks.

2. The total investment in the certificate of deposit of any one issuer, combined with the total investment in the bankers acceptances of any one issuer shall not exceed 10 percent of the issuer's total capital.

(b) The following pertains to collateralized certificates of deposit:

1. Subject to the limitations contained in this subsection, the Director may invest and reinvest moneys of any pension and annuity, static, demand, temporary reserve or trust group fund in collateralized certificates of deposit provided that:

i. The investment in the certificate of deposit is limited to a term of one year or less;

ii. The issuer demonstrates the capacity to wire collateral against payment through the Federal Reserve System to a designated custodian bank;

iii. The issuer provides collateral against payment consisting of United States Government Treasury obligations or obligations of the following United States Government agencies:

(1) Federal Farm Credit Banks Consolidated Systemwide Bonds;

(2) Federal Financing Banks;

(3) Federal Home Loan Banks; and/or

(4) Federal Land Banks;

iv. At the time of purchase the market value of the collateral provided under (b)1iii above shall be equal to at least 120 percent of the purchase price of the certificate of deposit; and

v. The securities selected as collateral shall have a maturity not exceeding 10 years from the date of the purchase of the certificate of deposit.

SUBCHAPTER 32. CERTIFICATES OF DEPOSIT

Subchapter Historical Note

All provisions of this Subchapter 27 were filed and became effective prior to September 1, 1969. This subchapter expired October 31, 1984. New Rules became effective August 5, 1985 pursuant to Executive Order 66(1978) as R.1985 d.201. See: 17 N.J.R. 60(b), 17 N.J.R. 1907(c). Subchapter 32, Common Pension Fund A, was recodified to Subchapter 54 and Subchapter 27, Certificates of Deposit was recodified to Subchapter 32 by R.1991 d.274, effective June 3, 1991. See chapter and section levels for further amendments.

17:16-32.1 Permissible investments

(a) The following pertains to uncollateralized certificates of deposit:

1. Subject to the limitations contained in this subchapter, the Director may invest and reinvest moneys of any fund, including the State of New Jersey Cash Management Fund, in certificates of deposit of banks provided that:

i. The investment in the certificate of deposit is limited to a term of one year or less;

ii. The issuer of the certificate of deposit is a bank or trust company which:

(1) If headquartered in the United States or if a United States subsidiary of a foreign bank, is a member of the Federal Reserve System and the Federal Deposit Insurance Corporation; or

(2) If headquartered outside of the United States has Moody's ratings of at least Aa/P-1 on its long-term and short-term deposits, respectively and is headquartered in a country which is rated at least Aaa by Moody's and has agreed to adhere to the international capital standards as stipulated in the Basle accord; and

iii. The issuer, at the date of its last published balance sheet preceding the date of investment, was in

Amended by R.1979 d.436, eff. October 31, 1979.
 See: 11 N.J.R. 650(c).

Amended by R.1982 d.191, eff. June 21, 1982.
 See: 13 N.J.R. 528(a), 14 N.J.R. 663(c).

(a): "uncollateralized" added; (a)1: "the" certificate was "a" certificate, (b) through (b)6 added.

Amended by R.1983 d.281, eff. July 18, 1983.
 See: 15 N.J.R. 794(a), 15 N.J.R. 1182(b).

Minimum assets established and that a foreign entity not be in control.

Repeal and new rule by R.1990 d.335, effective July 2, 1990.
 See: 22 N.J.R. 1349(a), 22 N.J.R. 2032(c).

Recodified by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

New Jersey Cash Management Fund added.

17:16-32.2 Other limitations

(a) The issuer of a certificate of deposit shall deliver such certificate to a third party bank designated by the Division of Investment.

(b) The prospective issuer of a certificate of deposit shall be capable of providing rate quotes over the telephone upon request, and such quotes shall be good for ten minutes.

(c) The certificate of deposit is in an amount of at least \$1,000,000.

Amended by R.1974 d.63, March 12, 1974.

See: 6 N.J.R. 158(c).

Amended by R.1974 d.94, eff. April 18, 1974.

See: 6 N.J.R. 205(a).

Amended by R.1979, d.436, eff. October 31, 1979.

See: 11 N.J.R. 650(c).

Amended by R.1983 d.281, eff. July 18, 1983.

See: 15 N.J.R. 794(a), 15 N.J.R. 1182(a).

References to total investment and bankers acceptances, added.

17:16-32.3 Legal papers

Prior to any commitment to purchase obligations of the type described in N.J.A.C. 17:16-27.1(a), it shall be ascertained that the security under consideration is included on a list of banks which has been certified by the Director and a member of his staff as having met the requirements of this regulation.

Amended by R.1972 d.75, eff. April 9, 1972.

See: 4 N.J.R. 109(a).

Amended by R.1974 d.63, eff. March 12, 1974.

See: 6 N.J.R. 158(c).

Amended by R.1976 d.208, eff. July 1, 1976.

See: 8 N.J.R. 407(a).

Amended by R.1979 d.436, eff. October 31, 1979.

See: 11 N.J.R. 650(c).

Amended by R.1983 d.281, eff. July 18, 1983.

See: 15 N.J.R. 794(a), 15 N.J.R. 1182(a).

Language added regarding a list of banks certified by the Director and a member of staff as having met the requirements of the regulation.

17:16-32.4 (Reserved)

Amended by R.1979 d.436, eff. October 31, 1979.

See: 11 N.J.R. 650(c).

SUBCHAPTER 33. REPURCHASE AGREEMENTS**Authority**

N.J.S.A. 52:18A-91.

Source and Effective Date

R.1984 d.261, filed June 13, 1984.

See: 16 N.J.R. 1042(a), 16 N.J.R. 1808(a).

Subchapter Historical Note

All provisions of this Subchapter 37 were filed and became effective February 14, 1974 as R.1974 d.36. See: 6 N.J.R. 125(a). Revisions were filed and became effective September 24, 1974 as R.1974 d.264. See: 6 N.J.R. 416(a). Further revisions were filed and became effective July 18, 1983 as R.1983 d.282. See: 15 N.J.R. 795(a), 15 N.J.R. 1182(c). This subchapter was readopted, filed June 13, 1984 as R.1984 d.261. See: 16 N.J.R. 1042(a), 16 N.J.R. 1808(a).

Prior annotations for the old Subchapter 33, Community College Capital Projects Funding became effective October 1, 1971 as R.1971 d.175A, pursuant to Authority of N.J.S.A. 18A:3-21e, for carrying out the provisions of Chapter 12, P.L. 1971 (N.J.S.A. 18A:64A-22.1 to 18A:64-22.8, inclusive). See 3 N.J.R. 183(d), 3 N.J.R. 235(a).

Subchapter 33, Community College Capital Projects Funding, was repealed and Subchapter 37, Repurchase Agreements, was recodified to Subchapter 33 by R.1991 d.274, effective June 3, 1991. Prior rulemaking activity follows:

17:16-33.7 Certificate by County Treasurer

Amended by R.1973 d.9, effective January 4, 1973.

See: 4 N.J.R. 279(a), 5 N.J.R. 59(c).

17:16-33.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest moneys of any fund including the State of New Jersey Cash Management Fund in repurchase agreements of any bank or securities broker, provided that:

1. The seller is a bank or trust company or a wholly-owned subsidiary of such bank or trust company which:
 - i. Is headquartered in the United States; and
 - ii. Is not controlled by a foreign entity; or
2. The seller is a securities broker which:
 - i. Is headquartered in the United States;
 - ii. Is not controlled by a foreign entity; and
 - iii. Is currently on the "Approved List of Issuers of Commercial Paper" as permitted under N.J.A.C. 17:16-31.
3. The seller demonstrates the capacity to wire collateral against payment through the Federal Reserve System to a designated custodian bank; and
4. The security sold by the bank or securities broker and subject to repurchase is an obligation of the United States Government or an obligation of the following United States Government agencies:

- i. Federal Farm Credit Banks Consolidated System-wide Bonds;
- ii. Federal Financing Bank;
- iii. Federal Home Loan Banks; and
- iv. Federal Land Banks.

As amended, R.1974 d.264, eff. September 24, 1974.

See: 6 N.J.R. 416(a).

As amended, R.1979 d.95, eff. March 8, 1979.

See: 11 N.J.R. 212(a).
 As amended, R.1983 d.282, eff. July 18, 1983.
 See: 15 N.J.R. 795(a), 15 N.J.R. 1182(c).
 Restrictions on investments limited to banks in U.S. not foreign controlled, ability to wire collateral through Federal Reserve and security is an obligation of U.S. Government.
 Amended by R.1986 d.357, effective September 8, 1986.
 See: 18 N.J.R. 1353(b), 18 N.J.R. 1838(b).
 Added text to (a)1.
 Recodified by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
 New Jersey Cash Management Fund added.
 Amended by R.1993 d.188, effective May 3, 1993.
 See: 25 N.J.R. 909(a), 25 N.J.R. 1886(a).
 Revised text.

17:16-33.2 Limitations

The maturity of repurchase agreements shall not exceed 15 days. At the time of purchase, the market value of the securities delivered pursuant to the repurchase agreement shall be equal to at least 102 percent of the par value of the repurchase agreement. The securities delivered shall have a maturity not exceeding 10 years from the date of the repurchase agreement.

As amended, R.1983 d.282, eff. July 18, 1983.
 See: 15 N.J.R. 795(a), 15 N.J.R. 1182(c).
 30 days maturity of repurchase agreement reduced to 15 days.

17:16-33.3 (Reserved)

Repealed by R.1983 d.282, effective July 18, 1983.
 See: 15 N.J.R. 795(a), 15 N.J.R. 1182(c).
 The rule formerly at this cite was entitled "Pension and annuity group; static group; demand group; temporary reserved group; trust group".

17:16-33.4 (Reserved)

Repealed by R.1983 d.282, effective July 18, 1983.
 See: 15 N.J.R. 795(a), 15 N.J.R. 1182(c).
 The rule formerly at this cite was entitled "Approved list of banks and government dealers".

SUBCHAPTER 34. BANKERS ACCEPTANCE

Subchapter Historical Note

This subchapter was originally adopted pursuant to authority delegated at N.J.S.A. 52:18A-89 and was filed and became effective September 24, 1974, as R.1974 d.263. See: 6 N.J.R. 415(b). The subchapter was readopted as R.1983 d.283 effective July 18, 1983. Subchapter 34, "Rule on Investment of Proceeds of Bonds for School Building Construction" was recodified by R.1991 d.274, effective June 3, 1991. Prior annotations were:

17:16-34.1 Investment of proceeds of bonds for school building construction
 New Rule, R.1971 d.216, effective December 3, 1971.
 See: 3 N.J.R. 234(a), 4 N.J.R. 13(a).

17:16-34.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest moneys of any fund

including the State of New Jersey Cash Management Fund in bankers acceptances of banks provided that:

1. The investment in the bankers acceptance is limited to a term of one year or less;
2. The accepting institution is a bank or trust company which:
 - i. Is headquartered in the United States;
 - ii. Is not controlled by a foreign entity; and
 - iii. Is a member of the Federal Reserve System, the Federal Deposit Insurance Corporation of the Federal Savings & Loan Insurance Corporation;
3. The accepting institution, at the date of its last published balance sheet preceding the date of investment, had a primary capital ratio (as defined by the Federal Reserve Board) of at least 5.5 percent.
4. The total investment in the bankers acceptances of any one issuer, combined with the total investment in the certificates of deposit on any one issuer, shall not exceed 10 percent of the issuer's primary capital.

As amended, R.1983 d.283, eff. July 18, 1983.
 See: 15 N.J.R. 796(a), 15 N.J.R. 1182(d).
 Fuller clarification of limitations on bankers acceptances.
 Amended by R.1985 d.555, effective November 4, 1985.
 See: 17 N.J.R. 2095(b), 17 N.J.R. 2676(b).
 Substantially amended.
 Recodified by R. 1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
 New Jersey Cash Management Fund added.

17:16-34.2 (Reserved)

Repealed by R.1983 d.283, eff. July 18, 1983.
 See: 15 N.J.R. 796(a), 15 N.J.R. 1182(d).
 The rule formerly at this cite had to do with limitations imposed by the Banking Act of 1948.

17:16-34.3 Other limitations

- (a) The accepting institution shall deliver the acceptance to a third party bank designated by the Division of Investment.
- (b) The accepting institution shall be capable of providing rate quotes over the telephone upon request, and such quotes shall be good for 10 minutes.
- (c) The bankers acceptance is in an amount of at least \$1,000,000.

As amended, R.1983 d.283, eff. July 18, 1983.
 See: 15 N.J.R. 796(a), 15 N.J.R. 1182(d).
 State agencies added to list.
 Amended by R.1985 d.555, effective November 4, 1985.
 See: 17 N.J.R. 2095(b), 17 N.J.R. 2676(b).
 Old text deleted and new text substituted.

17:16-34.4 (Reserved)

Repealed by R.1983 d.283, eff. July 18, 1983.
 See: 15 N.J.R. 796(a), 15 N.J.R. 1182(d).

The rule formerly at this cite was concerned with Council approval of banks used for repurchase agreement.

17:16-34.5 (Reserved)

Repealed by R.1983 d.283, eff. July 18, 1983.
See: 15 N.J.R. 796(a), 15 N.J.R. 1182(d).

The rule formerly at this cite was the list of banks for bankers acceptances.

17:16-34.6 Legal papers

Prior to any commitment to purchase obligations of the type described in this subchapter, it shall have been ascertained that the security under consideration is included on a list of banks which has been certified by the Director and a member of his staff as having met the requirements of this regulation.

As amended, R.1983 d.283, eff. July 18, 1983.
See: 15 N.J.R. 796(a), 15 N.J.R. 1182(d).

SUBCHAPTER 35. LOAN PARTICIPATION NOTES

Subchapter Historical Note

Subchapter 35, Loan Participation Notes, became effective October 3, 1988 as R.1988 d.466. See 20 N.J.R. 1779(b). 20 N.J.R. 2467(c). The subchapter was recodified from Subchapter 41 by R.1991 d.274, effective June 3, 1991.

17:16-35.1 Definition

As used in this subchapter, "loan participation notes" means a short term, unsecured promissory note.

17:16-35.2 Permissible investments

(a) Subject to the maturity limitations contained in this subchapter, the Director may invest and reinvest the moneys of any fund in loan participation notes which are not in default as to either principal or interest when acquired and which have been issued by a company incorporated within and transacting business within the United States.

(b) The Director shall submit a list of issuers of loan participation notes to the Council for its approval. Such list may be amended or enlarged from time to time subject to the Council's approval and shall be designated the "Approved List of Issuers of Loan Participation Notes".

(c) The Director may purchase loan participation notes only from originating banks which meet the requirements of N.J.A.C. 17:16-32.

Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Citations corrected.

17:16-35.3 Eligible funds

The Director may purchase "loan participation notes" for the State of New Jersey Cash Management Fund and any fund under the supervision of the State Investment Council, providing the maturity purchased does not exceed 180 days.

17:16-35.4 Legal papers

(a) Prior to any commitment to purchase loan participation notes, the Director shall obtain:

1. Evidence that the note issuer has a commercial paper rating of A-1 by "Standard & Poor's Commercial Paper Division"; and
2. Approval by the Attorney General of each "Master Participation Agreement" which specifies the terms and conditions between the investor and the originating bank.

SUBCHAPTER 36. GUARANTEED INCOME CONTRACTS

Authority

N.J.S.A. 52:18A-91.

Source and Effective Date

R.1991 d.387, effective August 5, 1991.
See: 23 N.J.R. 1776(a), 23 N.J.R. 2344(b).

Subchapter Historical Note

Subchapter 36, Common Pension Fund B, was recodified to Subchapter 63 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b). Subchapter 36, Guaranteed Income Contracts, became effective August 5, 1991, as R.1991 d.387. See: Source and Effective Date. See section annotations for further amendments.

17:16-36.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest the assets of any fund in guaranteed income contracts, provided that:

1. The issuer of the guaranteed income contract is incorporated in the United States;
2. The issuer is not in default as to the payment of any of its outstanding obligations;
3. The issuer, in the case of an insurance company, had a total combined capital stock and surplus reserve for contingencies equal to at least \$200,000,000 at the date of its last published financial statement and a credit rating of at least A+ from A.M. Best Company; or
4. The issuer, in the case of a commercial bank, meets all capital requirements as defined by the Federal Reserve Board at the date of its last published financial statement and has a short term debt rating of at least P1 from Moody's Investor Service.

17:16-36.2 Other limitations

The investment in a guaranteed income contract is limited to a term of 10 years or less.

17:16-36.3 Legal papers

Prior to any commitment to purchase a guaranteed income contract, the Division of Investment shall ascertain that the issuer is included on a list of companies which has been certified by the Director as having met the requirements of this subchapter.

SUBCHAPTER 37. (RESERVED)

Subchapter Historical Note

Subchapter 37, Repurchase Agreements, was recodified to Subchapter 33 by R.1991 d.274, effective June 3, 1991. See 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

SUBCHAPTER 38. (RESERVED)

Subchapter Historical Note

Subchapter 38 became effective September 24, 1974 as R.1974 d.266. See: 18 N.J.R. 416(c). This subchapter expired January 17, 1984 and was adopted as a new rule effective December 2, 1985 pursuant to Executive Order 66(1978) as R.1978 d.615. See: 17 N.J.R. 2386(b), 17 N.J.R. 2914(b). This subchapter was repealed and new rules adopted effective February 17, 1987 as R.1987 d.107. See: 18 N.J.R. 2438(a), 19 N.J.R. 380(b). Subchapter 38, Common Pension Fund C, was repealed by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

SUBCHAPTER 39. (RESERVED)

Subchapter Historical Note

Subchapter 39, Bankers Acceptance, was recodified to Subchapter 34 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

SUBCHAPTER 40. (RESERVED)

Subchapter Historical Note

Subchapter 40, Collateralized Notes and Mortgages, was recodified to Subchapter 19 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

SUBCHAPTER 41. U.S. COMMON AND PREFERRED STOCKS AND ISSUES CONVERTIBLE INTO COMMON STOCKS

Subchapter Historical Note

Subchapter 41, Loan Participation Notes, was recodified to Subchapter 35 and Subchapter 17, Common and Preferred Stock and Issues Convertible into Common Stock, was recodified to Subchapter 41 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

17:16-41.1 Permissible investments

(a) The stock shall be issued by a company or bank incorporated or organized under the laws of the United States or any State thereof or of the District of Columbia, or by any international company that is included in the S & P 500 Composite Index.

(b) The Director shall submit a list of common stocks to the Council for its approval. Such list may be amended or enlarged from time to time subject to the Council's approval and shall be designated the "Approved Common and Preferred Stock and Convertible Securities List".

(c) The Director shall only select issues of common stocks from the "Approved Common Stock List" to be recommended by the pension funds.

(d) Notwithstanding the above restrictions, the Director may:

1. Exercise the conversion privileges in the common stock of any security acquired under this subchapter or N.J.A.C. 17:16-7;
2. Purchase the preferred stock, whether convertible or not, of a company the stock of which qualifies for investment and is on the "Approved Common and Preferred Stock and Convertible Securities List";
3. Purchase the convertible issue of a company the common stock of which qualifies for investment and is on the "Approved Common and Preferred Stock and Convertible Securities List".

Amended by R.1973 d.44, eff. Feb. 8, 1973.
See: 5 N.J.R. 94(b).
Amended by R.1986 d.356, effective September 8, 1986.
See: 18 N.J.R. 1353(a), 18 N.J.R. 1838(a).
Subchapter 8 amended to 7.
Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Amended by R.1995 d.385, effective July 17, 1995.
See: 27 N.J.R. 1767(a), 27 N.J.R. 2703(b).

17:16-41.2 Applicable funds

(a) Applicable funds are as follows:

1. Consolidated Police and Firemen's Pension Fund.
2. Police and Firemen's Retirement System.
3. Public Employees' Retirement System.

4. State Police Retirement System.
5. Teachers' Pension and Annuity Fund.
6. Common Pension Fund A.
7. Trustees for the Support of Public Schools.
8. Judicial Retirement System of New Jersey.
9. The Deferred Compensation Equity Fund.

Amended by R.1983 d.107, eff. April 18, 1983.

See: 15 N.J.R. 133(a), 15 N.J.R. 627(a).

Deleted reference to 1837 Surplus Revenue Fund.

Recodified by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Deferred Compensation Equity Fund added.

17:16-41.3 Limitations

(a) The market value of total investments in common and preferred stock and issues convertible into common stock, both domestic, as permitted herein, and international, as permitted in N.J.A.C. 17:16-44, for any one of the pension funds listed in N.J.A.C. 17:16-41.2 shall not exceed 60 percent of the market value of such fund, with the exception of Common Pension Funds A and D. When the combined market value of the common and preferred stock and issues convertible into common stock, held by a pension fund, either directly or in Common Pension Funds A and D, reaches or exceeds 58 percent of the total market value of the pension fund as of the end of a period used for evaluating unit values of participation, then the Council shall be notified at a regularly scheduled meeting of the Council or its Executive Committee. When the combined market value of the common and preferred stock and issues convertible into common stock, held by a pension fund, either directly or in Common Pension Funds A and D, exceeds 60 percent of the total market value of the respective fund, then the Division may have a six-month period of grace to reduce the level of participation of the fund below the 60 percent level, except that the period of grace may be extended for additional four month periods with the approval of the Council.

(b) Not more than four percent of the book value of any pension fund shall be invested in the common and preferred stock of any one corporation, except that this limitation for the Trustees for the Support of Public Schools shall be 10 percent. This four percent limitation shall not apply to Common Pension Fund A included in the list of applicable funds listed in N.J.A.C. 17:16-17.2.

(c) The total amount of stock purchased or acquired of any one corporation shall not exceed five percent of the common stock, or of any other class of stock which entitles the holder thereof to vote at all elections of directors, of such corporation.

Amended by R.1973 d.44, eff. Feb. 8, 1973.

See: 5 N.J.R. 94(b).

Amended by R.1983 d.107, eff. April 18, 1983.

See: 15 N.J.R. 133(a), 15 N.J.R. 627(a).

25 percent deleted, replaced by 35 percent in subsection (a).

Amended by R.1985 d.582, effective November 18, 1985.

See: 17 N.J.R. 2239(b), 17 N.J.R. 2784(c).

"40 percent" substituted for "35 percent"; deleted "1837 Surplus Revenue Fund".

Amended by R.1986 d.356, effective September 8, 1986.

See: 18 N.J.R. 1353(a), 18 N.J.R. 1838(a).

(c) "five" amended to "10".

Amended by R.1989 d.466, effective September 5, 1989.

See: 21 N.J.R. 1821(a), 21 N.J.R. 2808(a).

Exception to equity limitation for Common Pension Fund A added at (a).

Administrative correction to (b).

See: 21 N.J.R. 3556(a).

Amended by R.1990 d.147, effective March 5, 1990.

See: 22 N.J.R. 21(b), 22 N.J.R. 840(a).

Individual stock holdings limited to four percent, except Common Pension Fund A.

Amended by R.1991 d.388, effective August 5, 1991.

See: 23 N.J.R. 1776(b), 23 N.J.R. 2344(b).

In (a), added international stocks and increased market value from 40 to 60 percent. Also added council notification when Common Pension Funds A and D exceed 58 percent. Also added six-month grace period to reduce fund below 60 percent. In (c), reduced from 10 to 5 percent amount of stock permitted to be held in one company.

17:16-41.4 Approved Common Stock List

(a) *Aerospace.*

1. Boeing Company;
2. McDonnell Douglas Corporation;
3. North American Rockwell Corporation;
4. United Aircraft Corporation.

(b) *Airlines.*

1. American Airlines, Incorporated;
2. Delta Airlines, Incorporated;
3. Northwest Airlines, Incorporated;
4. Pan American World Airways, Incorporated;
5. United Air Lines, Incorporated.

(c) *Automotive.*

1. Chrysler Corporation;
2. Eaton Yale & Towne, Incorporated;
3. Ford Motor Company;
4. General Motors Corporation;
5. Kelsey-Hayes Company.

(d) *Building.*

1. Boise Cascade Corporation;
2. Carrier Corporation
3. Georgia-Pacific Corporation
4. Masco Corporation
5. Potlatch Forests, Incorporated

- 6. United States Gypsum Company
- 7. U.S. Plywood-Champion Papers Incorporated
- 8. Weyerhaeuser Company

(e) *Chemical.*

- 1. Allied Chemical Corporation
- 2. American Cyanamid Company
- 3. Diamond Shamrock Corporation
- 4. Englehard Minerals and Chemical Corporation
- 5. FMC Corporation
- 6. Monsanto Company

(f) *Cosmetics.*

- 1. Avon Products, Incorporated
- 2. Chesebrough-Pond's Incorporated
- 3. Max Factor & Company
- 4. The Gillette Company

(g) *Drugs.*

- 1. Abbott Laboratories
- 2. American Home Products Corporation
- 3. Becton, Dickinson & Company
- 4. Bristol-Myers Company
- 5. Merck & Company, Incorporated
- 6. Chas. Pfizer & Company, Incorporated
- 7. Rorer-Amchem, Incorporated
- 8. Warner-Lambert Pharmaceutical Company

(h) *Electrical-electronics.*

- 1. Emerson Electric Company
- 2. General Electric Company
- 3. Honeywell, Incorporated
- 4. International Telephone & Telegraph Corporation
- 5. Radio Corporation of America
- 6. TRW, Incorporated
- 7. Westinghouse Electric Corporation

(i) *Entertainment.*

- 1. Walt Disney Productions

(j) *Foods.*

- 1. Campbell Soup Company
- 2. The Coca-Cola Company

- 3. Consolidated Foods Corporation
- 4. General Foods Corporation

(k) *Hotels-motels.*

- 1. Holiday Inns of America, Incorporated

(l) *Household products.*

- 1. American Can Company
- 2. Scott Paper Company

(m) *Machinery.*

- 1. The Carborundum Company
- 2. Caterpillar Tractor Company
- 3. Deere & Company
- 4. Neptune Meter Company
- 5. Studebaker-Worthington, Incorporated

(n) *Merchandising.*

- 1. Allied Stores Corporation
- 2. Federated Department Stores, Incorporated
- 3. S.S. Kresge Company
- 4. Lucky Stores, Incorporated
- 5. The May Department Stores Company
- 6. J.C. Penney Company
- 7. Sears, Roebuck & Company
- 8. F.W. Woolworth Company
- 9. Zale Corporation

(o) *Non-ferrous metals.*

- 1. Eagle-Picher Industries, Incorporated
- 2. The International Nickel Company of Canada Limited
- 3. Kennecott Copper Corporation

(p) *Office equipment.*

- 1. Addressograph Multigraph Corporation
- 2. Burroughs Corporation
- 3. International Business Machines Corporation
- 4. The National Cash Register Company
- 5. Xerox Corporation

(q) *Oils.*

- 1. Atlantic Richfield Company
- 2. Cities Service Company

3. Kerr-McGee Corporation
 4. Louisiana Land and Exploration
 5. Marathon Oil Company
 6. Phillips Petroleum Company
 7. Standard Oil Company of California
 8. Standard Oil Company of New Jersey
 9. Texaco Incorporated
 10. Union Oil Company of California
- (r) *Paper.*
1. Crown Zellerbach Corporation
- (s) *Real estate.*
1. Amfac, Incorporated
 2. Dillingham Corporation
- (t) *Research oriented.*
1. Eastman Kodak Company
 2. Minnesota Mining & Manufacturing Company
 3. Polaroid Corporation
- (u) *Rubber.*
1. B.F. Goodrich Company
 2. The Goodyear Tire & Rubber Company
- (v) *Gas and electric utilities.*
1. Atlantic City Electric Company
 2. Baltimore Gas & Electric Company
 3. Boston Edison Company
 4. Cleveland Electric Illuminating Company
 5. Commonwealth Edison Company
 6. Delmarva Power & Light Company
 7. Duquesne Light Company
 8. General Public Utilities Corporation
 9. Kansas City Power & Light Company
 10. Middle South Utilities, Incorporated
 11. New York State Electric & Gas Corporation
 12. Northern States Power Company (Minnesota)
 13. Oklahoma Gas & Electric Company
 14. Pacific Gas & Electric Company
 15. Philadelphia Electric Company
 16. Potomac Electric Power Company
 17. Public Service Company of Colorado
 18. Public Service Electric & Gas Company
 19. Southern Company
 20. Tampa Electric Company
 21. Utah Power & Light Company
 22. Virginia Electric & Power Company
 23. Wisconsin Electric Power Company
- (w) *Telephone utilities.*
1. American Telephone & Telegraph Company
 2. Continental Telephone Corporation
 3. General Telephone & Electronics Corporation
 4. Mid-Continent Telephone Corporation
 5. Rochester Telephone Corporation
 6. United Utilities, Incorporated
- (x) *Banks and finance.*
1. Bank of America National Trust and Savings Association
 2. Bankers Trust New York Corporation
 3. Charter New York Corporation
 4. The Chase Manhattan Bank
 5. Chemical Bank New York Trust Company
 6. Continental Illinois National Bank & Trust Company of Chicago
 7. Crocker-Citizens National Bank
 8. The First National Bank of Boston
 9. The First National Bank of Chicago
 10. First National City Bank
 11. First Pennsylvania Banking & Trust Company
 12. Hartford National Bank & Trust Company
 13. Manufacturers Hanover Trust Company
 14. Mellon National Bank & Trust Company
 15. Morgan Guaranty Trust Company of New York
 16. National City Bank of Cleveland
 17. The Philadelphia National Bank
 18. Security Pacific National Bank (Los Angeles)
 19. Transamerica Corporation
 20. Tri-Continental Corporation

21. Wells Fargo Bank

Deleted (b); Revised (c); Redesignated existing (c) through (f) as (b) through (e).

SUBCHAPTER 42. COMMON STOCKS AND CONVERTIBLE SECURITIES

Subchapter Historical Note

Subchapter 42, Covered Call Options, was recodified to Subchapter 43 and Subchapter 22, Common Stocks and Convertible Securities, was recodified to Subchapter 42 by R.1991 d.274, effective June 3, 1991.

17:16-42.1 Definition

As used in this subchapter, "convertible securities" shall mean convertible preferred stocks and convertible bonds.

17:16-42.2 Permissible investments

(a) The common stock and securities shall be listed on a securities exchange in the United States.

(b) The convertible preferred stocks and bonds must meet the following requirements:

1. The obligations have been registered with the Securities and Exchange Commission;
2. The obligor corporation is not in default as to the payment of principal or interest upon any of its outstanding obligations;
3. The obligor corporation has a capitalization of at least \$50,000,000.

(c) The Director shall submit a list of common stocks and convertible securities to the Council for its approval. Such list may be amended or enlarged from time to time subject to the Council's approval and shall be designated the "Approved Common and Preferred Stock and Convertible Securities List".

(d) The Director shall select for purchase issues of common stocks and convertible securities from the "Approved Common and Preferred Stock and Convertible Securities List".

(e) Notwithstanding the above restrictions, the Director may:

1. Exercise the conversion privileges into common stock of any security acquired under this Subchapter;
2. Purchase the convertible issue of a company, the common stock of which qualifies for investment and is on the "Approved Common and Preferred Stock and Convertible Securities List".

Amended by R.1972 d.75, effective April 19, 1972.
See: 4 N.J.R. 109(a).
Amended by R.1993 d.189, effective May 3, 1993.
See: 25 N.J.R. 909(b), 25 N.J.R. 1886(b).

17:16-42.3 Applicable funds in the trust group

(a) Applicable funds in the trust group are:

1. College of Medicine and Dentistry of New Jersey—Endowment Funds;
2. Supplemental Annuity Collective Trust.

As amended, R.1972 d.75, eff. April 19, 1972.
See: 4 N.J.R. 109(a).

17:16-42.4 Limitations

(a) Not more than ten percent of the book value of any fund shall be invested, in the aggregate, in the common stock and convertible securities of any one corporation.

(b) The total amount of stock purchased or acquired of any one corporation shall not exceed five percent of the common stock, or of any other class of stock which entitles the holder thereof to vote at all the elections of directors, of such corporation.

17:16-42.5 Legal papers

(a) Prior to any commitment to purchase convertible securities of the type described in this subchapter, the Director shall have obtained:

1. A certification signed by two members of the Division's staff and endorsed by the Director stating that each proviso enumerated under Section 22.2 (permissible investments) of this Chapter had been checked by them and that, in their opinion, the security under consideration qualified as a satisfactory investment as outlined by Section 22.2 (Permissible investments) of this chapter; and
2. A written opinion from the Attorney General that the purchase of such obligations is authorized by the provisions of N.J.S.A. 52:18A-89, as amended and supplemented.

(b) Subsequent to the purchase, the Director shall obtain:

1. Such other documents or opinions which the Attorney General may require; and
2. A written approving opinion from the Attorney General to the effect that all such documents and opinions received by the Director are satisfactory as to form and substance.

17:16-42.6 Approved Common Stock and Convertible Securities List

(a) *Aerospace.*

1. Boeing Company
2. McDonnell Douglas Corporation
3. North American Rockwell Corporation

4. United Aircraft Corporation
- (b) *Airlines.*
1. American Airlines, Incorporated
 2. Delta Airlines, Incorporated
 3. Northwest Airlines, Incorporated
 4. Pan American World Airways, Incorporated
 5. United Air Lines, Incorporated
- (c) *Automotive.*
1. Chrysler Corporation
 2. Eaton Yale & Towne, Incorporated
 3. Ford Motor Company
 4. General Motors Corporation
 5. Kelsey-Hayes Company
- (d) *Building.*
1. Boise Cascade Corporation
 2. Carrier Corporation
 3. Georgia-Pacific Corporation
 4. Masco Corporation
 5. Potlatch Forests, Incorporated
 6. United States Gypsum Company
 7. U.S. Plywood-Champion Papers Incorporated
 8. Weyerhaeuser Company
- (e) *Chemical.*
1. Allied Chemical Corporation
 2. American Cyanamid Company
 3. Diamond Shamrock Corporation
 4. Englehard Minerals and Chemical Corporation
 5. FMC Corporation
 6. Monsanto Company
- (f) *Cosmetics.*
1. Avon Products, Incorporated
 2. Chesebrough-Pond's Incorporated
 3. Max Factor & Company
 4. The Gillette Company
- (g) *Drugs.*
1. Abbott Laboratories
 2. American Home Products Corporation
3. Becton, Dickinson & Company
 4. Bristol-Meyers Company
 5. Merck & Company, Incorporated
 6. Chas. Pfizer & Company, Incorporated
 7. Rorer-Amchem, Incorporated
 8. Warner-Lambert Pharmaceutical Company
- (h) *Electrical-electronics.*
1. Emerson Electric Company
 2. General Electric Company
 3. Honeywell, Incorporated
 4. International Telephone & Telegraph Corporation
 5. Radio Corporation of America
 6. TRW, Incorporated
 7. Westinghouse Electric Corporation
- (i) *Entertainment.*
1. Walt Disney Productions
- (j) *Foods.*
1. Campbell Soup Company
 2. The Coca-Cola Company
 3. Consolidated Foods Corporation
 4. General Foods Corporation
- (k) *Hotels-motels.*
1. Holiday Inns of America, Incorporated
- (l) *Household products.*
1. American Can Company
 2. Scott Paper Company
- (m) *Machinery.*
1. The Carborundum Company
 2. Caterpillar Tractor Company
 3. Deere & Company
 4. Neptune Meter Company
 5. Studebaker-Worthington, Incorporated
- (n) *Merchandising.*
1. Allied Stores Corporation
 2. Federated Department Stores, Incorporated
 3. S.S. Kresge Company
 4. Lucky Stores, Incorporated

5. The May Department Stores Company
6. J.C. Penney Company
7. Sears, Roebuck & Company
8. F.W. Woolworth Company
9. Zale Corporation

(o) *Non-ferrous metals.*

1. Eagle-Picher Industries, Incorporated
2. The International Nickel Company of Canada Limited
3. Kennecott Copper Corporation

(p) *Office equipment.*

1. Addressograph Multigraph Corporation
2. Burroughs Corporation
3. International Business Machines Corporation
4. The National Cash Register Company
5. Xerox Corporation

(q) *Oils.*

1. Atlantic Richfield Company
2. Cities Service Company
3. Kerr-McGee Corporation
4. Louisiana Land and Exploration
5. Marathon Oil Company
6. Phillips Petroleum Company
7. Standard Oil Company of California
8. Standard Oil Company of New Jersey
9. Texaco Incorporated
10. Union Oil Company of California

(r) *Paper.*

1. Crown Zellerbach Corporation

(s) *Real estate.*

1. Amfac, Incorporated
2. Dillingham Corporation

(t) *Research oriented.*

1. Eastman Kodak Company
2. Minnesota Mining & Manufacturing Company
3. Polaroid Corporation

(u) *Rubber.*

1. B.F. Goodrich Company
2. The Goodyear Tire & Rubber Company

(v) *Gas and electric utilities.*

1. Atlantic City Electric Company
2. Baltimore Gas & Electric Company
3. Boston Edison Company
4. Cleveland Electric Illuminating Company
5. Commonwealth Edison Company
6. Delmarva Power & Light Company
7. Duquesne Light Company
8. General Public Utilities Corporation
9. Kansas City Power & Light Company
10. Middle South Utilities, Incorporated
11. New York State Electric & Gas Corporation
12. Northern States Power Company (Minnesota)
13. Oklahoma Gas & Electric Company
14. Pacific Gas & Electric Company
15. Philadelphia Electric Company
16. Potomac Electric Power Company
17. Public Service Company of Colorado
18. Public Service Electric & Gas Company
19. Southern Company
20. Tampa Electric Company
21. Utah Power & Light Company
22. Virginia Electric & Power Company
23. Wisconsin Electric Power Company

(w) *Telephone utilities.*

1. American Telephone & Telegraph Company
2. Continental Telephone Corporation
3. General Telephone & Electronics Corporation
4. Mid-Continent Telephone Corporation
5. Rochester Telephone Corporation
6. United Utilities, Incorporated

(x) *Banks and finance.*¹

1. Bank of America National Trust and Savings Association
2. Bankers Trust N.Y. Corporation
3. Charter New York Corporation

4. The Chase Manhattan Bank
5. Chemical Bank New York Trust Company
6. Continental Illinois National Bank & Trust Company of Chicago
7. Crocker—Citizens National Bank
8. The First National Bank of Boston
9. The First National Bank of Chicago
10. First National City Bank
11. First Pennsylvania Banking & Trust Company
12. Hartford National Bank & Trust Company
13. Manufacturers Hanover Trust Company
14. Mellon National Bank & Trust Company
15. Morgan Guaranty Trust Company of New York
16. National City Bank of Cleveland
17. The Philadelphia National Bank
18. Security Pacific National Bank (Los Angeles)
19. Transamerica Corporation
20. Tri—Continental Corporation
21. Wells Fargo Bank

¹ Bank stocks will not be purchased for the Supplemental Annuity Collective Trust unless listed on a stock exchange located in the United States.

SUBCHAPTER 43. COVERED CALL OPTIONS

Subchapter Historical Note

All provisions of this subchapter were filed and became effective August 9, 1979 as R.1979 d.307. See: 11 N.J.R. 475(c). Amendments were filed and became effective June 4, 1982 as R.1982 d.192. See: 13 N.J.R. 526(b), 14 N.J.R. 663(b). Further revisions were filed and became effective June 21, 1982 as R.1982 d.193. See: 13 N.J.R. 750(b), 14 N.J.R. 663(b). This subchapter was readopted, filed August 13, 1984 as R.1984 d.383. See: 16 N.J.R. 1708(a), 16 N.J.R. 2378(b). See chapter and section levels for further amendments.

Subchapter 43, Mortgage-Backed Securities; Private Pass-through, was recodified to Subchapter 58 and Subchapter 42, Covered Call Options, was recodified to Subchapter 43 by R.1991 d.274, effective June 3, 1991.

17:16-43.1 Definition; covered call options

As used in this subchapter, "covered call options" shall mean options on common stocks held in the pertinent portfolio.

17:16-43.2 Permissible transactions

(a) Options may be written only on stocks held in the pertinent portfolio.

(b) Any option purchased or sold shall be listed on the Chicago Board Option Exchange, the American Stock Exchange, the Philadelphia Stock Exchange or the Pacific Stock Exchange.

As amended, R.1982 d.193, eff. June 21, 1982.

See: 13 N.J.R. 750(b), 14 N.J.R. 663(d).

(b): Added "the Philadelphia . . . Pacific Stock Exchange."

(c) deleted.

17:16-43.3 Applicable funds

(a) Applicable funds include:

1. Common Pension Fund A:
2. Supplemental Annuity Collective Trust.

As amended, R.1982 d.192, eff. June 4, 1982.

See: 13 N.J.R. 526(b), 14 N.J.R. 663(b).

(a)2 added.

17:16-43.4 Limitations

Sales of covered call options shall not exceed 10 percent of any one common stock holding, except in the case of holdings subject to divestment under the provisions of P.L. 1985, c.308.

As amended, R.1982 d.193, eff. June 21, 1982.

See: 13 N.J.R. 750(b), 14 N.J.R. 663(d).

"10" percent was "5".

Amended by R.1986 d.30, effective February 18, 1986.

See: 17 N.J.R. 2968(a), 18 N.J.R. 428(a).

Added text " , except in the . . . P.L. 1985, c.308."

SUBCHAPTER 44. COMMON AND PREFERRED STOCKS AND ISSUES CONVERTIBLE INTO COMMON STOCK OF INTERNATIONAL CORPORATIONS

Subchapter Historical Note

Subchapter 44, Deferred Compensation Plan, became effective January 2, 1990 as R.1990 d.7. See: 21 N.J.R. 3262(a), 22 N.J.R. 60(b), and was recodified to Subchapter 65 and Subchapter 48, Common and Preferred Stocks and Issues Convertible into Common Stock of International Corporations, recodified to Subchapter 44 by R.1991 d.274, effective June 3, 1991.

17:16-44.1 Permissible investments

(a) Permissible investments include stock issued by a company or bank incorporated or organized under the laws of the countries listed on the Approved List of International Government and Agency Obligations set forth in N.J.A.C 17:16-20.4.

(b) Regular dividends, either cash or stock, must have been paid on the common stock for five years next preceding the date of purchase of securities under this subchapter (including dividends paid by predecessor companies) from earnings equal to or greater than the dividend paid. This requirement may be waived by the State Investment Council.

(c) Long-term debt shall not be more than 60 percent of total capital in the latest year.

(d) Current assets must be equal to or greater than current liabilities in the latest year.

(e) The Director shall submit a list of common stocks to the Council for its approval. Such list may be amended or enlarged from time to time subject to the Council's approval and shall be designated the "Approved Common and Preferred Stock and Convertible Securities List of International Corporations".

(f) The Director shall only select issues of common stocks from the "Approved Common and Preferred Stock and Convertible Securities List of International Corporations" to be purchased by the pension funds.

(g) Notwithstanding the above restrictions, the Director may:

1. Exercise the conversion privileges in the common stock of any security acquired under this subchapter;
2. Purchase the preferred stock, whether convertible or not, of a company the stock of which qualifies for investment and is on the "Approved Common and Preferred Stock Convertible Securities List of International Corporations"; and
3. Purchase the convertible issue of a company, the common stock of which qualifies for investment and is on the "Approved Common and Preferred Stock and Convertible Securities List of International Corporations".

Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Citations corrected.

17:16-44.2 Applicable funds

(a) The following funds may invest in common and preferred stock of international corporations pursuant to this subchapter:

1. Police and Firemen's Retirement System;
2. Public Employees' Retirement System;
3. State Police Retirement System;
4. Teachers' Pension and Annuity Fund;
5. Judicial Retirement System of New Jersey; and
6. Common Pension Fund D.

Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Common Pension Fund D added.

17:16-44.3 Limitations

(a) Not more than one percent of the book value of any pension fund shall be invested in the common and preferred stock of any one corporation.

(b) The total amount of stock purchased or acquired of any one corporation shall not exceed five percent of the common stock, or of any other class of stock which entitles the holder thereof to vote at all elections of directors, of such corporation.

(c) The market value of international common and preferred stock and issues convertible into common stock that can be held by a pension fund directly or through Common Pension Fund D, when combined with the market value of common and preferred domestic stock, and issues convertible into such common stocks, permitted under N.J.A.C. 17:16-41, cannot exceed 60 percent of the market value of a pension fund, subject to such further provisos as are contained in N.J.A.C. 17:16-41.

(d) The market value of international preferred and common stocks and issues convertible into common stocks, when combined with the market value of international government and agency obligations permitted under N.J.A.C. 17:16-20, cannot exceed 15 percent of the market value of a pension fund, subject to such further provisos as are contained in N.J.A.C. 17:16-67.

Amended by R.1991 d.389, effective August 5, 1991.
See: 23 N.J.R. 1777(a), 23 N.J.R. 2345(a).

Deleted prior (a); recodified (b) to (c) as (a) to (b); added (c) and (d).

SUBCHAPTER 45. COVERED PUT OPTIONS

Subchapter Historical Note

Subchapter 45, Real Estate Equity, became effective June 18, 1990 as R.1990 d.307. See: 22 N.J.R. 1044(b), 22 N.J.R. 1945(c), and was recodified to Subchapter 71. Subchapter 52, Covered Put Options, recodified to Subchapter 45 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

17:16-45.1 Definition of covered put options

As used in this subchapter, "covered put options" means puts for common stocks held in the pertinent portfolio.

17:16-45.2 Permissible transactions

(a) Puts may be purchased only for stocks held in the pertinent portfolio.

(b) Any put purchased or sold shall be listed on the Chicago Board Option Exchange, the American Stock Exchange, the Philadelphia Stock Exchange or the Pacific Stock Exchange.

17:16-45.3 Applicable funds

(a) The following funds are applicable for the purchase of puts:

1. Common Pension Fund A; and
2. The Supplemental Annuity Collective Trust.

17:16-45.4 Limitations

Purchases of covered put options shall not exceed 10 percent of any one common stock holding, except in the case of holdings subject to divestment under the provisions of P.L. 1985, c.308 (N.J.S.A. 52:18A-89.1 through 89.3).

SUBCHAPTER 46. (RESERVED)

Subchapter Historical Note

Subchapter 46, Common Pension Fund D, was recodified to Subchapter 67 by R.1991 d.274, effective June 3, 1991. See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

SUBCHAPTER 47. (RESERVED)

SUBCHAPTER 48. (RESERVED)

Subchapter Historical Note

Subchapter 48, Common and Preferred Stock and Issues Convertible into Common Stock of International Corporations, was recodified to Subchapter 44 by R.1991 d.274, effective June 3, 1991.

SUBCHAPTER 49. (RESERVED)

Subchapter Historical Note

Subchapter 49, Purchase and Sale of International Currency, was recodified to Subchapter 81 by R.1991 d.274, effective June 3, 1991.

SUBCHAPTER 50. (RESERVED)

Subchapter Historical Note

Subchapter 50, U.S. Treasury Futures Contracts, was recodified to Subchapter 21 by R.1991 d.274, effective June 3, 1991.

SUBCHAPTER 51. (RESERVED)

SUBCHAPTER 52. (RESERVED)

Subchapter Historical Note

Subchapter 52, Covered Put Options, was recodified to Subchapter 45 by R.1991 d.274, effective June 3, 1991.

SUBCHAPTER 53. TITLE II FEDERAL HOUSING ADMINISTRATION INSURED MORTGAGES—MULTI-FAMILY

Subchapter Historical Note

Subchapter 53, Title II Federal Housing Administration—Insured Mortgages; Multi-family, was recodified from Subchapter 28 by R.1991 d.274, effective June 3, 1991.

17:16-53.1 Definition

As used in this subchapter, “Federal Housing Administration insured multi-family mortgage” (hereinafter referred to as “mortgage”) shall mean a mortgage on a multi-family dwelling insured or to be insured by the Federal Housing Administration as authorized under Title II of the National Housing Act and more specifically described under the following sections:

Apartment House Rental Units	
207	221D3
220	221D4

17:16-53.2 General provision

Subject to the limitations contained in this Subchapter, the Director may invest and reinvest the moneys in any pension and annuity group fund in Title II Federal Housing Administration Insured Mortgages—Multi-Family.

17:16-53.3 Limitations

(a) Any investment in any mortgage shall be not less than \$1,000,000.00 nor more than \$10,000,000.00.

(b) The book value of mortgages purchased under this subchapter shall not exceed 20 percent of the assets of any pension and annuity fund at any one time.

(c) The Director shall approve the servicing for the mortgage.

(d) Prior to the purchase of any mortgage, the Director may designate a qualified consultant to inspect the property and general area and render a report of the feasibility of the purchase including his opinion of value. His fee shall be paid by the borrower or the sponsoring financial organization.

(e) No mortgage application for a mortgage on real property located within the State of New Jersey shall be considered except upon the recommendation of:

1. A New Jersey corporation presently servicing mortgages worth over \$50,000,000; or

2. A bank chartered by the Federal government and whose principal office is located in New Jersey and is presently servicing mortgages worth over \$50,000,000; or

3. The Real Estate Department of a bank or brokerage firm with capital stock, surplus and undivided profits totaling at least \$50,000,000, engaged in the purchase of FHA insured multi-family housing mortgages.

(f) Said New Jersey corporation or bank shall take the following factors into consideration in making its recommendations:

1. The net worth of the borrower;
2. The adequacy of the Federal Housing Administration escrow arrangements;
3. The salability of the property;
4. The income productivity of the property at the levels designated in the Federal Housing Administration documentation;
5. Any feasibility report of the consultant designated by the Director.

(g) No mortgage shall be recommended for purchase to the pension funds unless the Research Group within the Division of Investment shall have certified that the purchase is a legal investment and that the terms and yield on the security purchased are fair and equitable when compared with other securities available in the marketplace.

(h) No mortgage shall be purchased in a state which gives the borrower a redemption period.

As amended, R.1970 d.57, eff. May 21, 1970.
 See: 2 N.J.R. 51(c).
 As amended, R.1970 d.137, eff. November 13, 1970.
 See: 2 N.J.R. 86(e), 2 N.J.R. 102(d).
 As amended, R.1972 d.182, eff. September 18, 1972.
 See: 4 N.J.R. 249(b).
 As amended, R.1982 d.192, eff. June 4, 1982.
 See: 13 N.J.R. 526(b), 14 N.J.R. 663(b).
 Sections substantially amended.
 Recodified by R.1991 d.274, effective June 3, 1991.
 See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
 Citations corrected.

17:16-53.4 Legal papers

(a) Prior to issuance of a commitment to purchase, the Director shall have obtained and approved:

1. Advance commitment.
 - i. A current credit report on the borrower;
 - ii. Plans and specifications of proposed construction and a survey of the property;
 - iii. A copy of FHA commitment;
 - iv. A copy of FHA mortgagee's application for insurance, completed in its entirety;
 - v. All other pertinent FHA documents and approvals including, but not limited to, project analysis, estimated cost of construction and personal financial and credit statements.

2. Immediate purchase commitment:
 - i. Photographs of the property;
 - ii. Credit report on mortgage;
 - iii. Mortgagor's most recent financial statement;
 - iv. Current operating statement and occupancy report;
 - v. Copy of the application for FHA commitment, the FHA commitment for insurance and project analysis.

(b) Subsequent to the time of closing, the Director shall obtain:

1. Such documents as the Attorney General shall determine were required to effect the investment;
2. A written approving opinion from the Attorney General to the effect that all such documents and opinions received by the Director are satisfactory as to form and substance;
3. A servicing agreement in such form as the Attorney General may direct, entered into with the agent approved by the Director.

As amended, R.1970 d.57, eff. May 21, 1970.
 See: 2 N.J.R. 51(c).
 As amended, R.1972 d.182, eff. September 18, 1972.
 See: 4 N.J.R. 249(b).
 As amended, R.1982 d.192, eff. June 4, 1982.
 See: 13 N.J.R. 526(b), 14 N.J.R. 663(b).
 (a)1 added. Renumbered 1-5 as i-v;
 (a)6 now (a)2 with "such" and "data as" deleted.
 (b)3 "bank ... mortgage" deleted and "agent approved by the Director" added.

SUBCHAPTER 54. TITLE II FEDERAL HOUSING ADMINISTRATION INSURED CONSTRUCTION MORTGAGES—MULTI-FAMILY

Subchapter Historical Note

Unless otherwise expressly noted, all provisions of this Subchapter 29, Title 11 Federal Housing Administration Insured Construction Mortgages Multi-family were adopted by the Chairman, State Investment Council, pursuant to authority delegated at N.J.S.A. 52:18A-89, and were filed and became effective May 21, 1970, as R.1970 d.57 (See: 2 N.J.R. 51(c)). Subchapter 54, Title II Federal Housing Administration Insured Construction Mortgages; Multifamily, was recodified from Subchapter 29 by R.1991 d.274, effective June 3, 1991.

17:16-54.1 Definitions

(a) As used in this subchapter, a "Federal Housing Administration insured multi-family construction mortgage" (hereinafter referred to as a "construction mortgage") shall mean a mortgage on a multi-family dwelling insured or to be insured by the Federal Housing Administration as autho-

rized under Title II of the National Housing Act and more specifically described under the following sections:

- | | |
|-----------|-----------|
| 1. 207; | 4. 221D4; |
| 2. 220; | 5. 236. |
| 3. 221D3; | |

As amended, R.1975 d.364, eff. December 11, 1975.
See: 7 N.J.R. 51(c).

17:16-54.2 General provision

Subject to the limitations contained in this Subchapter, the Director may invest and reinvest the moneys in any pension and annuity group fund in Title II Federal Housing Administration Insured Construction Mortgages—Multi-Family.

17:16-54.3 Limitations

(a) Any investment in any construction mortgage shall be not less than \$1,000,000 nor more than \$10,000,000.

(b) The book value of construction mortgages and those purchased under N.J.A.C. 17:16-53 and 54 shall not exceed 20 percent of the assets of any pension and annuity fund at any one time.

(c) No construction mortgage shall be made except in conjunction with a mortgage and under the limitations contained in Subchapter 28 (Title II Federal Housing Administration Insured Mortgages—Multi-Family) of this Chapter.

(d) No construction mortgage application shall be considered unless said mortgage is to be on real property located within the State of New Jersey.

(e) A corporation, brokerage firm, or bank qualified under N.J.A.C. 17:16-28, must recommend the construction mortgage, but must as a condition of their recommendation arrange for a bank located in New Jersey to act as a principle in said construction mortgage for an amount not less than 10 percent and not more than 30 percent of the total amount of the construction mortgage. Said principal bank shall in all cases be approved by the Director.

(f) No construction mortgage shall be recommended for purchase to the pension funds unless the Research Group within the Division of Investment shall have certified that the purchase is a legal investment and that the terms and yield on the security purchased are fair and equitable.

As amended, R.1970 d.137, eff. November 13, 1970.
See: 2 N.J.R. 86(e), 2 N.J.R. 102(d).

As amended, R.1982 d.192, eff. June 4, 1982.

See: 13 N.J.R. 526(b), 14 N.J.R. 663(b).

(a): \$10,000,000 was \$8,000,000.

(e): "New Jersey" deleted, "brokerage firm" added.

(f): Substantially amended.

Recodified by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Citations corrected.

17:16-54.4 Legal papers

(a) Prior to issuance of any commitment to participate in a construction loan, the Director shall have obtained and approved:

1. A current credit report on the borrower;
2. Plans and specifications of proposed construction and a survey of the property;
3. A copy of FHA commitment for insurance;
4. A copy of the application for FHA commitment, completed in its entirety;
5. All other pertinent FHA documents and approvals including, but not limited to, project analysis, estimated cost of construction and personal financial credit statements;
6. A participation agreement entered into between the principal bank and the pension or annuity fund;
7. Builder's qualifications, including but not limited to, recent financial statements and past experience on similar projects.

(b) Subsequent to the time of closing, the Director shall obtain:

1. Such documents as the Attorney General shall determine were required to effect the investment;
2. A written approving opinion from the Attorney General to the effect that all such documents and opinions received by the Director are satisfactory as to form and substance.

As amended, R.1972 d.182, eff. September 18, 1972.

See: 4 N.J.R. 249(b).

SUBCHAPTER 55. TITLE II FEDERAL HOUSING ADMINISTRATION HOSPITAL MORTGAGES

Subchapter Historical Note

Subchapter 55, Title II Federal Housing Administration Mortgages, was recodified from Subchapter 10 by R.1991 d.274, effective June 3, 1991.

17:16-55.1 Definition

As used in this subchapter, "Federal Housing Administration Hospital Mortgage" (hereinafter referred to as "mortgage") shall mean a mortgage on a hospital insured or to be insured by the Federal Housing Administration as authorized under Title II of the National Housing Act and more specifically described under section 242(G).

17:16-55.2 General provision

Subject to the limitations contained in this subchapter, the director may invest and reinvest the moneys in any pension and annuity group fund in Title II Federal Housing Administration Hospital Mortgages.

17:16-55.3 Limitations

(a) Any investment in any mortgage shall be not less than \$1,000,000 nor more than \$15,000,000.

(b) The book value of mortgages purchased under N.J.A.C. 17:16-53 and 55 shall not exceed 20 per cent of the assets of any pension and annuity fund at any one time.

(c) The hospital must be located in the State of New Jersey and the mortgage must be serviced by the Division of Investment.

(d) No mortgage shall be recommended for purchase to the pension funds unless approved by a majority of the members of a Mortgage Advisory Committee created within the Division of Investment to advise the Director with respect to mortgage applications. The Committee shall be composed of five members serving without compensation who reside in New Jersey and are experienced in the purchase of mortgages. The Committee will meet whenever sufficient material is available to warrant a meeting and three members of the Committee shall constitute a quorum. Whenever practical, an agenda will be mailed to each Committee member in advance of the meeting. A copy of the agenda and analysis sheets (describing the mortgage offerings in detail), as well as a copy of the minutes summarizing the action taken, will be mailed to all five members and will be attached to such recommendation as the Director may make to the pension funds.

Amended by R.1970 d.137, effective November 13, 1970.
See: 2 N.J.R. 86(e), 2 N.J.R. 102(d).
Amended by R.1972 d.52, eff. March 10, 1972.
See: 4 N.J.R. 108(a).
Amended by R.1991, d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Citations corrected in (b).

17:16-55.4 Legal papers

(a) Prior to issuance of any commitment to purchase, the Director shall have obtained and approved:

1. A current credit report on the borrower;
2. A current photograph of the property, or plans and specifications of proposed construction, and a survey of the property;
3. A copy of FHA Commitment;
4. A copy of FHA Mortgagee's application for Insurance, completed in its entirety;
5. All other pertinent FHA Documents and Approvals including, but not limited to, project analysis and breakdown of reserves for replacements;
6. The breakdown of the estimated cost of construction.

(b) Subsequent to the time of closing, the Director shall obtain:

1. Such documents as the Attorney General shall determine were required to effect the investment;
2. A written approving opinion from the Attorney General to the effect that all such documents and opinions received by the Director are satisfactory as to form and substance.

Amended by R.1972 d.182, effective September 18, 1972.
See: 4 N.J.R. 249(b).

SUBCHAPTERS 56 THROUGH 57. (RESERVED)

SUBCHAPTER 58. MORTGAGE BACKED SECURITIES—PRIVATE PASSTHROUGH

Authority
N.J.S.A. 52:18A-91.

Source and Effective Date
R.1990 d.305, effective June 18, 1990.
See: 22 N.J.R. 1043(a), 22 N.J.R. 1945(a).

Subchapter Historical Note

This subchapter was filed and became effective August 9, 1979 as R.1979 d.307. See: 11 N.J.R. 475(d). Amendments were filed and became effective November 1, 1982 as R.1982 d.396. See: 14 N.J.R. 652(a), 14 N.J.R. 1221(a). Readoption was filed August 13, 1984 as R.1984 d.384. See: 16 N.J.R. 1709(a), 16 N.J.R. 2379(a). Prior rulemaking activity in Subchapter 43 (Mortgage Backed Securities) repealed by R.1990 d.305, effective June 18, 1990. Subsequent amendments are as follows:

- 17:16-43.1 Permissible investments
Amended by R.1982 d.396, effective November 1, 1982.
See: 14 N.J.R. 652(a), 14 N.J.R. 1221(a).
Investment criteria liberalized.
- 17:16-43.2 Legal papers
Amended by R.1982 d.396, effective November 1, 1982.
See: 14 N.J.R. 652(a), 14 N.J.R. 1221(a).
Cites to the New Jersey Administrative Code section added.

Subchapter 58, Mortgage-Backed Securities; Private Pass-through, was recodified from Subchapter 43 by R.1991 d.274, effective June 3, 1991.

17:16-58.1 Permissible investments

The Director may invest and reinvest the moneys of any fund in senior debt securities which are fully collateralized by mortgage securities. Not more than 25 percent of any one issue, which must be \$50 million or more in size, may be purchased at the time of issue, except that this requirement may be waived by the State Investment Council.

17:16-58.2 Pension and annuity group; static group; trust group

(a) The Director may invest or reinvest the moneys of any pension and annuity or trust group fund in mortgage backed passthrough securities provided that:

1. The issue has been registered with the Securities and Exchange Commission, except that this requirement may be waived by the State Investment Council;

2. The sponsor is incorporated under the laws of the United States or any state thereof or of the District of Columbia;

3. The sponsor is not in default as to the payment of principal or interest upon any of its outstanding obligations;

4. The individual mortgage loans serving as collateral have an average loan-to-value ratio of 75 percent or less; the collateral is at least 90 percent single-family detached residential property and at least 95 percent owner-occupied residential property; and

5. The issue has a credit rating of Aa or higher by Moody's Investors Service, Inc. and Standard & Poor's Corporation, excepting that one rating is sufficient if only one rating is available.

17:16-58.3 Legal papers

Prior to any commitment to purchase obligations of the type described in this article, the Director shall have obtained, in all cases, a certification signed by a member of the Division's staff and endorsed by the Director stating that, in their opinion, the security under consideration qualifies under the requisites of this subchapter.

SUBCHAPTERS 59 THROUGH 60. (RESERVED)

SUBCHAPTER 61. STATE OF NEW JERSEY CASH MANAGEMENT FUND

Subchapter Historical Note

All provisions of this subchapter were filed and became effective on February 1, 1971 as R.1971 d.17. See: 3 N.J.R. 14(a), 3 N.J.R. 52(b). Revisions to this subchapter were filed and became effective on May 19, 1977 as R.1977 d.173. See: 9 N.J.R. 296(a). Further revisions were filed and became effective on December 16, 1977 as R.1977 d.478. See: 10 N.J.R. 45(c). Further amendments were filed and became effective March 8, 1979 as R.1979 d.96. See: 11 N.J.R. 212(b). Further amendments were filed and became effective October 31, 1979 as R.1979 d.437. See: 11 N.J.R. 651(a). Further amendments were filed and became effective July 1, 1980 as R.1980 d.235. See: 12 N.J.R. 436(a). Further amendments were filed and became effective June 21, 1982 as R.1982 d.191. See: 13 N.J.R. 528(a), 14 N.J.R. 663(c). Further amendments became effective October 10, 1980 as R.1980 d.443. See: 12 N.J.R. 679(a). Further amendments were filed and became effective October 18, 1982 as R.1982 d.363. See: 14 N.J.R. 899(a), 14 N.J.R. 1166(a). This subchapter was readopted effective July 2, 1984 d.262. See: 16 N.J.R. 1041(a), 16 N.J.R. 1807(c). Subchapter 61, State of New Jersey Cash Management Fund was recodified from Subchapter 31 to Subchapter 61 by R.1991 d.274, effective June 3, 1991. See Chapter and section levels for other amendments.

17:16-61.1 Definition

Pursuant to chapter 270, P.L. 1970, as amended and supplemented by chapter 281, P.L. 1977, there is hereby created in the Division of Investment, Department of the Treasury, a common trust fund, to be known as the State of New Jersey Cash Management Fund, in which may be deposited the surplus moneys of the State (including funds administered by the Division of Pensions and the Division of Budget and Accounting), its counties, municipalities and school districts and the agencies or authorities created by any of these entities.

Amended by R.1979 d.96, effective March 8, 1979.
See: 11 N.J.R. 212(b).

17:16-61.2 Participation in the State of New Jersey Cash Management Fund

Participation in the State of New Jersey Cash Management Fund by State funds, representing net capital contributions to the fund together with any income thereon, shall be evidenced by proper entries setting forth ownership units in the records of the Bureau of Accounting, Division of Budget and Accounting, Department of the Treasury. Aggregate participation of other entities shall also be evidenced by proper entries in the records of the Bureau of Accounting, Division of Budget and Accounting, and their individual participations shall be evidenced by proper entries in the records of the Division of Investment and of the custodian bank. Contributions to the common fund by the participating funds will be made in cash.

17:16-61.3 Distribution of income

All income of the State of New Jersey Cash Management Fund as calculated under N.J.A.C. 17:16-61.9, shall be invested in units of participation in accordance with the requirements of N.J.A.C. 17:16-61.10. Such units of participation may be withdrawn in accordance with N.J.A.C. 17:16-61.11.

Amended by R.1985 d.554, effective November 4, 1985.
See: 17 N.J.R. 2095(a), 17 N.J.R. 2676(a).

Substantially amended.

Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Fee paid by non-State participants raised to $\frac{1}{10}$ of one percent.

17:16-61.4 Participating funds

The participation of any fund is subject to the approval of the State Treasurer.

17:16-61.5 Permissible investments

The Director may invest the assets of the State of New Jersey Cash Management Fund in fixed-income and debt securities which are legal investments for savings banks, or which are permitted under the provisions of N.J.S.A. 52:18A-89, subject to any applicable provisions of the regulations of the State Investment Council. All investments in the fund shall mature or are to be redeemed within one year, except that up to 25 percent of the fund may be invested in eligible securities which mature within two years; provided, however, that the average maturity of all investments in the fund shall not exceed one year.

Amended by R.1993 d.425, effective September 7, 1993.
See: 25 N.J.R. 2839(a), 25 N.J.R. 4119(a).

17:16-61.6 Units of participation

Each unit of participation shall represent an equal beneficial interest in the fund and no unit shall have priority or preference over any other. Each unit of participation shall be valued at the net asset value per unit as set forth in section 7 of this subchapter.

17:16-61.7 Valuation

The net asset value per unit of participation shall remain at \$1.00, except only in an instance where net income available for distribution might be negative, in which case the net asset value per unit would be reduced by each participant's proportionate share of such negative amount.

Amended by R.1980 d.235, effective July 1, 1980.
See: 12 N.J.R. 436(a).

17:16-61.8 Date of valuation

The valuation shall be determined at the opening of business on each business day, and shall be based on realized gains or losses accruals, and amortization as of the close of the previous day as set forth in section 9 of this subchapter.

Amended by R.1980 d.235, effective July 1, 1980.
See: 12 N.J.R. 436(a).

17:16-61.9 Calculation of daily income per participating unit

(a) The income due to the participants in the State of New Jersey Cash Management Fund shall be calculated daily. For the purpose of this calculation, net income available for distribution shall equal the sum of daily interest income, daily discount income, realized gain on sales, and amortized discount, from which sum shall be deducted the sum of realized loss on sales, amortized premium and total daily expenses. Such net income available for distribution shall then be divided by the number of outstanding participating units to determine the daily income per participating unit.

(b) In the case of participating funds of counties, municipalities, school districts and agencies or authorities created by either such entities or the State (the "other than State funds"), daily income per participating unit shall be further reduced by both a charge to establish a reserve and a charge for administrative expenses.

(c) The charge to establish a reserve shall be in the sum of up to and not to exceed 1/10 of one percent per annum of the aggregate value of the units owned by the other than State funds, and the daily income per participating unit owned by such other than State funds shall reflect their pro rata share of such sum. The reserve fund shall be a participating fund in the State of New Jersey Cash Manage-

ment Fund and shall be credited with and will retain daily income per participating unit in the manner of participating State funds. In the event of a loss occasioned by the bankruptcy of an issuer of a security held by the State of New Jersey Cash Management Fund, or a loss realized upon the sale of a security, such loss will be shared pro rata by all participants in the fund, but the assets of the reserve fund will be applied pro rata in a manner by the State Investment Council to that portion of the loss accruing to the "other than State funds". In no event will the application of the assets of the reserve fund exceed the loss accruing to the other than State funds, and no State funds will share in the disposition of the assets of the reserve fund.

(d) Similarly, the Other Than State participants' pro rata share of any gains realized upon the sale of securities by the Fund should be credited to the Reserve Fund. The charge for administrative expenses shall be in the sum of up to and not to exceed one tenth of one percent per annum of the aggregate value of the units owned by the Other Than State Funds, and the Daily Income Per Participating Unit owned by such Other Than State Funds shall reflect their pro rata share of such sum. The charge for administrative expenses shall be paid into a fund whose assets shall be at the disposal of the Treasurer.

(e) The method of calculation of each of the above terms will be in accordance with an agreement between the Treasurer of the State of New Jersey and the custodian bank.

As amended, R.1979 d.437, eff. October 31, 1979.

See: 11 N.J.R. 651(a).

As amended, R.1980 d.235, eff. July 1, 1980.

See: 12 N.J.R. 436(a).

As amended, R.1982 d.191, eff. June 21, 1982.

See: 13 N.J.R. 528(a), 14 N.J.R. 663(c).

"1/20" was "1/10".

Recodified by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Fee paid by non-State participants raised to 1/10 of one percent.

17:16-61.10 Reinvestment of daily income per participating unit

The aggregate of daily income per participating unit on total units owned by each participant will be reinvested automatically in additional units at a price of \$1.00 per unit and such new units will be credited to the respective accounts of all participants in the proportion to their holdings of participating units immediately prior to the determination of net income available for distribution. In the reinvestment of aggregate daily income as described above, fractional units may be issued representing fractions of a dollar, but no units will be issued representing fractions of one cent, nor will cash dividends be transmitted. Participating funds may obtain cash by redemption of units in accordance with N.J.A.C. 17:16-31.11.

As amended, R.1980 d.235, eff. July 1, 1980.

See: 12 N.J.R. 436(a).

Amended by R.1985 d.554, effective November 4, 1985.

See: 17 N.J.R. 2095(a), 17 N.J.R. 2676(a).

Recodified from 31.11: Old 31.10 was "Guidelines for valuation of securities".

17:16-61.11 Admission and withdrawal of participating units

(a) Admission to or withdrawal from the common fund shall be permitted on any business day. Admissions prior to noon will receive credit for net income available for distribution for such day if such admissions remain in the common fund through the close of such day. Withdrawals from the fund will receive credit for net income available for distribution only as of the close of the day next preceding such withdrawal.

(b) All admissions and withdrawals will be made in cash.

Amended by R.1985 d.554, effective November 4, 1985.
See: 17 N.J.R. 2095(a), 17 N.J.R. 2676(a).
Recodified from 31.12.

17:16-61.12 Amendments

This regulation may be amended from time to time by regulation of the State Investment Council. Any amendment adopted by such council shall be binding upon all participating funds, trusts and beneficiaries thereof. An amendment shall become effective, unless otherwise provided for therein, on the date it becomes effective under the Administrative Procedure Act.

Amended by R.1985 d.554, effective November 4, 1985.
See: 17 N.J.R. 2095(a), 17 N.J.R. 2676(a).
Recodified from 31.13.

17:16-61.13 Liquidation

The Director, Division of Investment, subject to the approval of the State Investment Council and the State Treasurer, may, upon two months' notice liquidate the aforementioned common fund, including the reserve fund. In the event of such liquidation, the owners of the units shall share proportionately, according to units owned, in each investment held by the common fund, and the other than State funds, shall share proportionately in the reserve fund. When such proportionate distribution is impracticable in the judgment of the director, he may instead distribute on liquidation, cash or temporary investments held by the common fund. No liquidation will be effected without the approval by the State Investment Council of a plan of distribution of the assets of the common fund including the assets of the reserve fund.

Amended by R.1985 d.554, effective November 4, 1985.
See: 17 N.J.R. 2095(a), 17 N.J.R. 2676(a).
Recodified from 31.14.

17:16-61.14 Guidelines on error correction

Any error in the statement of daily income to participants which is less than either one-third of a true calculation of such income or \$100,000, whichever is greater, may be adjusted over future daily income of the Fund in such a manner as may be approved by the director of the Division of Investment. Any error in excess of such amount may be adjusted in such manner as may be approved by the State Investment Council, through the restatement of income on days the error occurred, by charge against income on future days, or otherwise.

R.1982 d.363, eff. October 18, 1982.
See: 14 N.J.R. 899(a), 14 N.J.R. 1166(a).
Amended by R.1985 d.554, effective November 4, 1985.
See: 17 N.J.R. 2095(a), 17 N.J.R. 2676(a).
Recodified from 31.15.

SUBCHAPTER 62. COMMON PENSION FUND A**Subchapter Historical Note**

All provisions of this subchapter became effective February 1, 1972 as R.1972 d.17. See: 3 N.J.R. 14(a), 3 N.J.R. 52(b). This subchapter expired January 17, 1984 and this subchapter was adopted as a new rule effective December 2, 1985 pursuant to Executive Order 66(1978) as R.1985 d.615. See: 17 N.J.R. 2386(b), 17 N.J.R. 2914(b). Subchapter 62, Common Pension Fund A, was recodified from Subchapter 31 by R.1991 d.274, effective June 3, 1991. See chapter and section levels for further amendments.

17:16-62.1 General provision

(a) Pursuant to P.L. 1970, chapter 270, there is hereby created in the Division of Investment, Department of Treasury, a common trust fund, to be known as Common Pension Fund A.

(b) The following participating funds may invest in said Common Pension Fund A:

1. Consolidated Police and Firemen's Pension Fund Commission;
2. Police and Firemen's Retirement System;
3. Public Employees' Retirement System;
4. State Police Retirement System;
5. Teachers' Pension and Annuity Fund;
6. Judicial Retirement System of New Jersey.

As amended, R.1973 d.158, eff. June 19, 1973.
See: 5 N.J.R. 247(c).

17:16-62.2 Permissible investments

(a) The Common Pension Fund A shall be a fund created for the purpose of investing in corporate common stocks or securities convertible into such stock which are legal investments for a life insurance company organized under the laws of this State.

(b) Said common fund shall be composed of units of ownership of unlimited quantity.

(c) All units of ownership shall be represented by a certificate prepared by and issued by the Director of the Division of Investment.

(d) Each such certificate may represent one or more units of ownership.

(e) All units shall be purchased by the participating fund for the principal valuation price determined by these regulations.

(f) At the outset of said common fund, all initial purchases shall be made for a principal valuation price of \$1,000 per unit.

(g) All units of ownership shall be purchased by cash payments or in kind.

As amended, R.1972 d.229, eff. November 16, 1972.
See: 14 N.J.R. 311(a).

17:16-62.3 Certificates of ownership

(a) All certificates of ownership of units shall contain the following information:

1. Number of units purchased;
2. Purchaser;
3. Aggregate principal valuation price for the number of units purchased;
4. Date of purchase;
5. Serial number of the certificate;
6. Principal valuation price per unit purchased.

17:16-62.4 Units of participation

Each unit of participation shall represent an equal beneficial interest in the fund and no unit shall have priority or preference over any other.

17:16-62.5 Valuation

(a) Upon each valuation date, as defined below, there shall be a valuation for every investment in the common fund in the method provided for in these regulations.

(b) The valuation shall be for the principal value per outstanding unit and the income value per outstanding unit.

17:16-62.6 Date of valuation

The valuation shall be determined at the opening of business of the first business day of each month, and shall be based on market prices and accruals as of the close of the previous day.

As amended, R.1979 d.20, eff. January 17, 1979.
See: 11 N.J.R. 106(a).

17:16-62.7 Method of valuation

(a) The Director of the Division of Investment shall use the following method of valuation of investments:

1. Where there have been recorded sales or bid and asked prices of an investment in the common fund on a security exchange or exchanges approved pursuant to N.J.A.C. 17:16-41, the last recorded sales price, if there

has been a recorded sale, shall be used, unless on a day subsequent to such sale, there shall have been recorded bid and asked prices, in which event the mean of the most recent of such bid and asked prices shall be used.

2. If there have been no such recorded sales, the mean of the most recent such recorded bid and asked prices shall be used.

3. For the purpose of this regulation, recorded sales and bid and asked prices shall be those appearing in newspapers of general circulation published in the City of New York, in standard financial periodicals, or those established by a recognized pricing service.

4. In the case of a stock where a dividend has been declared and not as yet paid and the amount of such dividend has been included as income, such amount shall be deducted from the value of the stock as determined in paragraphs 1 and 2 of this subsection, unless such value has been based on an ex-dividend valuation.

5. An investment purchased and awaiting payment against delivery shall be included for valuation purposes as a security; and the cost thereof recorded as an account payable;

6. An investment sold but not delivered pending receipt of proceeds shall be valued at the net sales price.

7. For the purposes of valuation of an investment, with the exception of investments sold but not delivered, it shall not be necessary to deduct from the value ascertained by this regulation, brokers' commission or other expenses which would be incurred on a sale thereof.

As amended R.1979 d.20, eff. January 17, 1979.
See: 11 N.J.R. 106(a).
Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Citation corrected.

17:16-62.8 Valuation of units

(a) The following method shall be used in determining the principal value per unit:

1. To the valuation of investments determined as provided in section 7 of this subchapter, there shall be added:
 - i. Uninvested cash principal;
 - ii. The value of any rights or stock dividends which may have been declared but not received as of the valuation date when the security has been valued ex-right and ex-dividend;
 - iii. Such portion as shall constitute principal of any extraordinary or liquidating dividend which may have been declared but which is unpaid as of the valuation date when the particular security has been valued ex-dividend;
 - iv. Temporary investments which shall be valued at cost. The yield on these temporary investments shall

not be accrued, but shall be included in income monthly as paid.

2. There shall be deducted from the sum so ascertained all expenses chargeable to principal due or accrued. The net principal value thus determined shall be divided by the number of existing units in order to ascertain the principal value of each unit.

(b) The following method shall be used in determining the income value per unit:

1. Income shall include all moneys received or accrued which are not included in or defined as principal in this section;

2. From such income on hand and accrued there shall be deducted the expenses and liabilities due and accrued which are chargeable to income;

3. The amount of net income thus determined shall be divided by the number of existing units in order to ascertain the income value per unit;

4. Such income value per unit shall be disbursed, monthly or quarterly and in cash, to each participating fund according to ownership of units;

5. Adjustments to income in the amount of \$50,000 or more in any one month shall be adjusted according to the participant's holdings as of the month in which the error occurred. Adjustments under \$50,000 shall be included in the current month's income.

Amended by R.1972 d.229, effective November 16, 1972.
See: 4 N.J.R. 311(a).
Amended by R.1974 d.35, effective February 14, 1974.
See: 6 N.J.R. 124(d).
Amended by R.1977 d.125, effective April 11, 1977.
See: 9 N.J.R. 244(c).

17:16-62.9 Admission date

(a) No admission to or withdrawal from the common fund shall be permitted except on the basis of the principal unit value determined as described in section 8 of this subchapter and no participation shall be admitted to or withdrawn from the common fund except on a valuation date or within 15 days thereafter; however, in the event that an admission or withdrawal occurs within the 15-day period aforementioned, it shall be based upon the principal value as of the last valuation date preceding said admission or withdrawal.

(b) All admissions or withdrawals shall be made by cash payments or in kind.

(c) The price for purchasing units, except for original units issued by the common fund, shall be the principal valuation per unit as determined on each valuation date pursuant to section 8 of this subchapter.

Amended by R.1974 d.35, effective February 14, 1974.
See: 6 N.J.R. 124(d).

Amended by R.1979 d.97, effective March 8, 1979.
See: 11 N.J.R. 212(c).

17:16-62.10 Amendments

(a) These regulations may be amended from time to time by regulation of the State Investment Council.

(b) Any amendment adopted by such council shall be binding upon all participating trusts and beneficiaries thereof.

(c) An amendment shall become effective, unless otherwise provided for therein, on the date it becomes effective under the Administrative Procedure Act.

17:16-62.11 Distribution of realized appreciation

(a) Subsequent to the receipt of audited financial statements for the prior fiscal year, the State Investment Council may consider the realized appreciation in the common fund per unit. The Council may, in its sole discretion, choose any or all of the following options:

1. Declare as income to the participating funds such percentage of said realized appreciation of principal as it may deem prudent. When such declaration is made the percentage of such appreciation of principal to be income shall be deducted from the total principal in the Common Fund and added to income in the Common Fund prior to the next regular monthly valuation. Following such declaration, the amount declared as income shall be treated and distributed as income to the participating funds monthly or quarterly in cash and/or units.

2. Declare as capital gains to the participating funds such percentage of said realized appreciation of principal as it may deem prudent. When such declaration is made the percentage of such appreciation of principal declared shall be deducted from the total principal in the Common Fund and distributed monthly or quarterly in cash and/or units.

3. Retain any or all realized appreciation for future investments within the Common Fund.

Amended by R.1987 d.86, effective February 2, 1987.
See: 18 N.J.R. 2377(b), 19 N.J.R. 304(b).
Amended by R.1994 d.326, effective July 5, 1994.
See: 26 N.J.R. 1771(b), 26 N.J.R. 2798(b).

17:16-62.12 Limitations

(a) The Common Pension Fund A shall be permitted to invest in the Cash Management Fund and in such securities subject to the limitations and conditions contained in the rules of the State Investment Council, N.J.A.C. 17:16 particularly N.J.A.C. 17:16-41 except for the condition as to classification of funds contained in N.J.A.C. 17:16-5.

(b) In the event that any regulation contains a limitation of the assets of any pension and annuity group fund which may be invested either in one issue or a class of issues, that limitation shall be construed to apply to the combined assets of all of the pension funds and shall not restrict the total common pension fund investment in such assets or assets to those limitations for any individual pension fund.

As amended, R.1972 d.229, effective November 16, 1972.

See: 4 N.J.R. 311(a).

Amended by R.1988 d.248, effective June 6, 1988.

See: 20 N.J.R. 741(b), 20 N.J.R. 1208(d).

Added the Cash Management Fund and the State Investment Council.

Recodified by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Citation corrected; "and conditions" added.

17:16-62.13 Liquidation

(a) The Director, Division of Investment, subject to the approval of the State Investment Council and the State Treasurer, may, upon two months' notice, liquidate the Common Pension Fund.

(b) In the event of such liquidation, the owners of the units shall share proportionately, according to units owned, in each investment held by the Common Fund.

(c) When such proportionate distribution is impracticable in the judgment of the Director, he may instead distribute on liquidation, cash or temporary investments held by the Common Fund.

(d) Distribution upon liquidation shall occur within five days after a valuation date and shall be based upon the principal value per unit determined upon such valuation date.

(e) No liquidation will be effectuated without the approval by the State Investment Council of a plan of distribution of the assets of the Common Fund.

SUBCHAPTER 63. COMMON PENSION FUND B

Subchapter Historical Note

Subchapter 63, Common Pension Fund B, was recodified from Subchapter 36 by R.1991 d.274, effective June 3, 1991. Prior annotations were:

As amended, R.1972 d.75, effective April 19, 1972.

See: 4 N.J.R. 109(a).

17:16-63.1 General provisions

(a) Pursuant to P.L.1970, Chapter 270, there is hereby created in the Division of Investment, Department of Treasury, a common trust fund, to be known as Common Pension Fund B.

(b) The following participating funds may invest in said Common Pension Fund B:

1. Consolidated Police and Firemen's Pension Fund;
2. Police and Firemen's Retirement System;
3. Public Employees' Retirement System;
4. State Police Retirement System;
5. Teachers' Pension and Annuity Fund;
6. Judicial Retirement System of New Jersey.

As amended, R.1973 d.158, effective June 19, 1973.

See: 5 N.J.R. 247(c).

17:16-63.2 Permissible investments

(a) The Common Pension Fund B shall be a fund created for the purpose of investing in fixed income and debt securities which are legal investments for savings banks or life insurance companies organized under the laws of this State.

(b) Said Common Fund shall be composed of units of ownership of unlimited quantity.

(c) All units of ownership shall be represented by a certificate prepared by and issued by the Director of the Division of Investment. Each such certificate may represent one or more units of ownership.

(d) All units shall be purchased by the participating fund for the principal valuation price determined by these regulations.

(e) At the outset of said Common Fund, all initial purchases shall be made for a principal valuation price of \$1,000 per unit.

(f) All units of ownership shall be purchased by cash payments or in kind.

As amended, R.1972 d.229, effective November 16, 1972.

See: 4 N.J.R. 311(a).

17:16-63.3 Certificates of ownership

(a) All certificates of ownership of units shall contain the following information:

1. Number of units purchased;
2. Purchaser;
3. Aggregate principal valuation price for the number of units purchased;
4. Date of purchase;
5. Serial number of the certificate;
6. Principal valuation price per unit purchased.

17:16-63.4 Units of participation

Each unit of participation shall represent an equal beneficial interest in the fund and no unit shall have priority or preference over any other.

17:16-63.5 Valuation

(a) Upon each valuation date, as defined in N.J.A.C. 17:16-63.6, there shall be a valuation for every investment in the common fund in the method provided for in this chapter.

(b) The valuation shall be for the principal value per outstanding unit and the income value per outstanding unit.

17:16-63.6 Date of valuation

The valuation shall be determined at the opening of business on the first business day of each month, and shall be based on market prices and accruals as of the close of the previous day.

Amended by R.1991 d.478, effective September 16, 1991.

See: 23 N.J.R. 2103(a), 23 N.J.R. 2868(a).

Market price and accruals based on previous day's close.

17:16-63.7 Method of valuation

(a) The Director of the Division of Investment shall use a recognized pricing service approved prior to use by the State Investment Council.

(b) An investment purchased and awaiting payment against delivery shall be included for valuation purposes as a security, and the cost thereof recorded as an accounts payable.

(c) An investment sold but not delivered pending receipt of proceeds shall be valued at the net sales price.

(d) For the purposes of valuation of an investment, with the exception of investments sold but not delivered, it shall not be necessary to deduct from the value ascertained by this regulation, brokers' commission or other expenses which would be incurred on a sale thereof.

As amended, R.1974 d.265, effective September 24, 1974.

See: 6 N.J.R. 416(b).

17:16-63.8 Valuation of units

(a) The following method shall be used in determining the principal value per unit:

1. To the valuation of investments determined as provided in this section, there shall be added:
 - i. Uninvested cash principal;
 - ii. Rights, warrants, or other options;

- iii. Temporary investments which shall be valued at cost. The yield on these temporary investments shall not be accrued, but shall be included in income monthly as paid.

2. There shall be deducted from the sum so ascertained all expenses chargeable to principal due or accrued. The net principal value thus determined shall be divided by the number of existing units in order to ascertain the principal value of each unit.

(b) The income value per unit shall be determined by the following method:

1. Income shall include all interest accrued and accrual of discount;

2. From such income on hand and accrued there shall be deducted amortization of premium and the expenses and liabilities due and accrued, which are chargeable to income;

3. The amount of net income thus determined shall be divided by the number of existing units in order to ascertain the income value per unit;

4. Such income value per unit shall be disbursed, monthly or quarterly and in cash, to each participating fund according to ownership of units;

5. Adjustments to income in the amount of \$50,000 or more in any one month shall be adjusted according to the participants' holdings as of the month in which the error occurred;

6. Adjustments under \$50,000 shall be included in the current month's income.

As amended, R.1972 d.229, effective November 16, 1972.

See: 4 N.J.R. 311(a).

As amended, R.1974 d.265, effective September 24, 1974.

See: 6 N.J.R. 416(b).

As amended, R.1977 d.126, effective April 11, 1977.

See: 9 N.J.R. 244(d).

17:16-63.9 Admission date

(a) No admission to or withdrawal from the common fund shall be permitted except on the basis of the principal unit value determined as described in section 8 of this subchapter, and no participation shall be admitted to or withdrawn from the common fund except on a valuation date or within 15 days thereafter; however, in the event that an admission or withdrawal occurs within the 15-day period aforementioned, it shall be based on the principal value as of the last valuation date preceding said admission or withdrawal.

(b) All admissions or withdrawals shall be made by cash payments or in kind. The price for purchasing units, except for original units issued by the common fund, shall be the principal valuation per unit as determined on each valuation date pursuant to section 8 of this subchapter.

Amended by R.1974 d.265, effective September 24, 1974.
See: 6 N.J.R. 416(b).

17:16-63.10 Amendments

(a) This subchapter may be amended from time to time by the State Investment Council.

(b) Any amendment adopted by the State Investment Council shall be binding upon all participating trusts and beneficiaries thereof.

(c) An amendment shall become effective on the date the adoption notice is published in the New Jersey Register. The State Investment Council may, at its discretion, postpone the effectiveness of any amendment by including an operative date in the adoption notice.

17:16-63.11 Distribution of realized appreciation

(a) Subsequent to the receipt of audited financial statements for the proper fiscal year, the State Investment Council may consider the realized appreciation in the Common Fund per unit.

(b) The Council may, in its sole discretion, choose any or all of the following options:

1. Declare as income to the participating funds such percentage of said realized appreciation of principal as it may deem prudent. When such declaration is made the percentage of such appreciation of principal declared to be income shall be deducted from the total principal in the Common Fund and added to income in the Common Fund prior to the next regular monthly valuation. Following such declaration, the amount declared as income shall be treated and distributed as income to the participating funds monthly or quarterly in cash and/or units.

2. Declare as capital gains to the participating funds such percentage of said realized appreciation of principal as it may deem prudent. When such declaration is made the percentage of such appreciation of principal declared shall be deducted from the total principal in the Common Fund and distributed monthly or quarterly in cash and/or units.

(c) Retain any or all realized appreciation for future investments within the Common Fund.

Amended by R.1974 d.265, effective September 24, 1974.
See: 6 N.J.R. 416(b).

Amended by R.1987 d.87, effective February 2, 1987.
See: 18 N.J.R. 2378(a), 19 N.J.R. 304(b).

(c) added.

Amended by R.1994 d.327, effective July 5, 1994.
See: 26 N.J.R. 1772(a), 26 N.J.R. 2798(c).

17:16-63.12 Limitations

(a) The Common Pension Fund B shall be permitted to invest in the Cash Management Fund and in such securities subject to the limitations and conditions contained in the rules of the State Investment Council, N.J.A.C. 17:16 except

for the condition as to classification of funds contained in N.J.A.C. 17:16-3.

(b) In the event that any regulation contains a limitation of the assets of any pension and annuity group fund which may be invested either in one issue or a class of issues, that limitation shall be construed to apply to the combined assets of all of the pension funds and shall not restrict the total common pension fund investment in such asset or assets to those limitations for any individual pension fund.

Amended by R.1972 d.229, effective November 16, 1972.
See: 4 N.J.R. 311(a).

Amended by R.1988 d.247, effective June 6, 1988.
See: 20 N.J.R. 742(a), 20 N.J.R. 1208(e).

Added Cash Management Fund and State Investment Council.

17:16-63.13 Liquidation

(a) The Director, Division of Investment, subject to the approval of the State Investment Council and the State Treasurer, may, upon two months' notice, liquidate the aforementioned Common Fund.

(b) In the event of such liquidation, the owners of the units shall share proportionately, according to units owned, in each investment held by the Common Fund.

(c) When such proportionate distribution is impracticable in the judgment of the Director, he may instead distribute on liquidation, cash or temporary investments held by the common fund.

(d) Distribution upon liquidation shall occur within five days after a valuation date and shall be based upon the principal value per unit determined upon such valuation date.

(e) No liquidation will be effectuated without the approval by the State Investment Council of a plan of distribution of the assets of the Common Fund.

SUBCHAPTER 64. (RESERVED)

SUBCHAPTER 65. DEFERRED COMPENSATION PLAN

Authority

N.J.S.A. 52:18A-91.

Source and Effective Date

R.1982 d.362, effective October 18, 1982.
See: 14 N.J.R. 900(a), 14 N.J.R. 1166(b).

Subchapter Historical Note

Subchapter 65, Deferred Compensation Plan, was recodified from Subchapter 44 by R.1991 d.274, effective June 3, 1991.

17:16-65.1 Definition

Pursuant to N.J.S.A. 52:18A-163 there is hereby created in the Division of Investment, Department of Treasury, three common funds to be known as New Jersey State Employees Deferred Compensation Equity Fund, New Jersey State Employees Deferred Compensation Income Fund and the New Jersey State Employees Deferred Compensation Cash Management Fund, in which will be deposited monies from salary reductions of New Jersey State employees.

17:16-65.2 Participation in the State of New Jersey Deferred Compensation Plan

Participation in the State of New Jersey Deferred Compensation Plan represented by contributions to the funds shall be evidenced by proper entries setting forth ownership units in the records of the Bureau of Accounting, Division of Budget and Accounting, Department of the Treasury, or an agent thereof. Contributions to the three common funds shall be made in cash. The participation of State employees is subject to the Plan as established by the State of New Jersey Deferred Compensation Board.

17:16-65.3 Distribution of income

All income as calculated pursuant to N.J.A.C. 17:16-65.7 shall be invested in units of participation in accordance with N.J.A.C. 17:16-65.9 and such units shall be withdrawn in accordance with N.J.A.C. 17:16-65.10.

Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Citations corrected.

17:16-65.4 Permissible investments

(a) The Director may invest the assets of the State of New Jersey Deferred Compensation Plan in securities which are legal investments for fiduciaries of trust estates in New Jersey which are permitted under N.J.S.A. 52:18A-163, subject to the applicable provisions of the regulations of the State Investment Council. The New Jersey State Employees Deferred Compensation Fixed Income Fund will be invested in fixed income securities having a maturity of one year or more, and the New Jersey State Employees Deferred Compensation Equity Fund will be invested in such common and preferred stocks and issues convertible into common stock as are permitted under N.J.A.C. 17:16-41 subject, in the case of both funds, to the exception noted in (b) below. The New Jersey State Employees Deferred Compensation Cash Management Fund shall be invested in the State of New Jersey Cash Management Fund, which in turn will be invested in accordance with N.J.A.C. 17:16-61, or in such other fixed income securities maturing in less than one year as may be permitted by N.J.A.C. 17:16.

(b) Both the State of New Jersey State Employees Deferred Compensation Fixed Income Fund and the State of New Jersey State Employees Deferred Compensation Equity Fund may hold up to 25 percent of its assets either in short term fixed income securities, as permitted by the rules and regulations of the State Investment Council, or in the State of New Jersey Cash Management Fund.

(c) With respect to the State of New Jersey Employees Deferred Compensation Equity Fund, not more than 10 percent of the book value of the Fund shall be invested in the common stocks, preferred stocks and securities convertible into common stock of any one corporation.

(d) With respect to the State of New Jersey State Employees Deferred Compensation Fixed Income Fund, not more than 10 percent of the book value of the assets of the fund shall be invested in the debt of any one corporation, and not more than 10 percent of any one issue may be purchased at the time of issue.

Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Citations corrected.

17:16-65.5 Units of participation

Each unit of participation shall represent an equal beneficial interest in each of the funds and no unit shall have priority or preference over any other in each respective fund. Each unit of participation shall be valued at the net asset value per unit as defined in N.J.A.C. 17:16-65.7.

Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Citations corrected.

17:16-65.6 Date of valuation

The valuation shall be determined after the close of business on the last day of each month, and shall be based on market prices and accruals as of the close of such day.

17:16-65.7 Valuation

The net asset value of each fund on the last day of each month shall be determined by dividing the total value of the fund's securities and other assets, less any administrative expenses or other liabilities, by the total outstanding units of participation in the fund. Securities' prices will be determined by a pricing service or a method which has been approved by the State Investment Council. Accrual and amortization procedures will be calculated by procedures and formulas approved by the State Investment Council. The method of pricing each fund monthly will be in accordance with contractual obligations of the custodian bank, subject to the approval of the State Investment Council. The method of calculation of units of participation will be in accordance with an agreement between the State of New Jersey and the Plan Administrator. Initial unit values will be \$1.00.

17:16-65.8 Guidelines for valuation of securities

(a) An investment purchased and awaiting payment against delivery shall be included for valuation purposes as security and the cost thereof recorded as an account payable.

(b) An investment sold but not delivered pending receipt of proceeds shall be valued at the net sales price.

(c) For the purposes of valuation of an investment, with the exception of investments sold but not delivered, it shall not be necessary to deduct from the value ascertained by this rule, brokers' commission or other expenses which would be incurred on a sale thereof.

(d) In the case of a stock where a dividend has been declared and not as yet paid and the amount of such dividend has been included as income, such amount shall be deducted from the value of the stock, unless such value is based on an ex-dividend valuation.

17:16-65.9 Reinvestment of income earned

The aggregate of monthly income per participating unit on total units attributed to each participant will be reinvested automatically in additional units of participation. New units will be credited to the respective accounts of all of the participants in proportion to their holdings of participating units immediately prior to the determination of the monthly net income available for distribution. In the reinvestment of aggregate monthly income as described above, fractional units may be issued representing fractions of one dollar.

17:16-65.10 Admission and withdrawal of units of participation

Admission to or withdrawal from the common funds shall be permitted as of the first business day of each month, subject to the procedures of the Administrator of the Plan. All admissions and withdrawals will be made in cash.

17:16-65.11 Errors and omissions

(a) In the event of errors or omissions in the calculation of accruals of income, amortization or pricing of securities, the custodian bank shall correct such errors or omissions as is set forth in the custody agreement.

(b) In the event of errors or omissions in the calculation of unit values or participants' accounts the Administrator of the Plan shall correct such errors or omissions in accordance with its contract with the State of New Jersey.

17:16-65.12 Amendments

This rule may be amended from time to time by regulation of the State Investment Council. Any amendment adopted by such Council shall be binding upon all participants and beneficiaries thereof.

17:16-65.13 Liquidation

The Director, Division of Investment, upon direction of the New Jersey State Employees Deferred Compensation Board and with the approval of the State Investment Council, shall liquidate the aforementioned common funds.

SUBCHAPTER 66. (RESERVED)

SUBCHAPTER 67. COMMON PENSION FUND D

Authority

N.J.S.A. 52:18A-91.

Source and Effective Date

R.1990 d.7, effective January 2, 1990.

See: 21 N.J.R. 3262(a), 21 N.J.R. 3438(a), 22 N.J.R. 60(b).

Subchapter Historical Note

Subchapter 67, Common Pension Fund D, was recodified from Subchapter 46 by R.1991 d.274, effective June 3, 1991.

17:16-67.1 Definition

(a) Pursuant to P.L. 1970, Chapter 270, there is hereby created in the Division of Investment, Department of the Treasury, a common trust fund, to be known as Common Pension Fund D. The following participating funds may invest in said Common Pension Fund D:

1. Police and Firemen's Retirement System;
2. Public Employees' Retirement System;
3. Teachers' Pension and Annuity Fund; and
4. Judicial Retirement System of New Jersey.

17:16-67.2 Permissible investments

The Common Pension Fund D shall be a fund created for the purpose of investing in international debt securities, international corporate common stocks or securities convertible into such stock, currencies and currency futures and options which are approved for investment under N.J.A.C. 17:16-20, 44 and 81, and in the State of New Jersey Cash Management Fund. Said Common Fund shall be composed of units of ownership of unlimited quantity. All units of ownership shall be represented by a certificate prepared by and issued by the Director of the Division of Investment. Each such certificate may represent one or more units of ownership. All units of ownership shall be purchased by cash payments or in kind. All units shall be purchased by the participating fund for the principal valuation price determined by these rules. At the outset of said Common Fund,

all initial purchases shall be made for a principal valuation price of \$1,000 per unit.

Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), N.J.R. 1800(b).
Citations corrected.

17:16-67.3 Certificates of ownership

(a) All certificates of ownership of units shall contain the following information:

1. The number of units purchased;
2. The purchaser;
3. The aggregate principal valuation price for the number of units purchased;
4. The date of purchase;
5. The serial number of the certificate; and
6. The principal valuation price per unit purchased.

17:16-67.4 Units of participation

Each unit of participation shall represent an equal beneficial interest in the fund and no unit shall have priority or preference over any other.

17:16-67.5 Valuation

Upon each valuation date, as defined in N.J.A.C. 17:16-67.6 there shall be a valuation for every investment in the Common Fund in the method provided for in this subchapter. The valuation shall be for the principal value per outstanding unit and the income value per outstanding unit.

Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Citations corrected.

17:16-67.6 Date of valuation

The valuation shall be determined at the opening of business of the first business day of each quarter, and shall be based on market prices and accruals as of the close of the previous day, in every case converted into United States dollars as provided in N.J.A.C. 17:16-67.7.

Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).
Citations corrected.

17:16-67.7 Method of valuation

(a) The Director of the Division of Investment shall use the following method of valuation of investments:

1. Where there have been recorded sales or bid and asked prices of an investment in the Common Fund on recognized exchanges in foreign countries approved by the State Investment Council, the last recorded sales price, if there has been a recorded sale, shall be used, unless on a day subsequent to such sale, there shall have been recorded bid and asked prices, in which event the mean of the most recent of such bid and asked prices shall be used; or

2. If there have been no such recorded sales, the mean of the most recent such recorded bid and asked prices shall be used.

(b) For the purpose of this section, recorded sales and bid and asked prices shall be those appearing in newspapers of general circulation published in the City of New York, the City of London, England, in standard financial periodicals, or those established by a recognized pricing service.

(c) In the case of a stock where a dividend has been declared and not as yet paid and the amount of such dividend has been included as income, such amount shall be deducted from the value of the stock as determined in (a) unless such value has been based on an ex-dividend valuation.

(d) An investment purchased and awaiting payment against delivery shall be included for valuation purposes as a security and the cost thereof recorded as an account payable.

(e) An investment sold but not delivered pending receipt of proceeds shall be valued at the net sale price.

(f) For the purposes of valuation of an investment, with the exception of investments sold but not delivered, it shall not be necessary to deduct from the value ascertained by this section, brokers' commission or other expenses which would be incurred on a sale thereof.

(g) For the purposes of valuing securities, all values determined under this section shall be converted into United States dollars at rates shown in the Wall Street Journal on the valuation date, or those established by a recognized pricing service.

Amended by R.1991 d.390, effective August 5, 1991.
See: 23 N.J.R. 1777(b), 23 N.J.R. 2345(b).

In (g), added "or those established by a recognized pricing service".

17:16-67.8 Valuation of units

(a) The following method shall be used in determining the principal value per unit:

1. To the valuation of investments determined as provided in N.J.A.C. 17:16-67.7, there shall be added:

- i. Uninvested cash principal;

ii. The value of any rights or stock dividends which may have been declared but not received as of the valuation date when the security has been valued ex-right and ex-dividend;

iii. Such portion as shall constitute principal of any extraordinary or liquidating dividend which may have been declared but which is unpaid as of the valuation date when the particular security has been valued ex-dividend; and

iv. Temporary investments which shall be valued at cost. The yield on these temporary investments shall not be accrued, but shall be included in income monthly as paid.

2. There shall be deducted from the sum so ascertained all expenses chargeable to principal due or accrued. The net principal value thus determined shall be divided by the number of existing units in order to ascertain the principal value of each unit.

(b) All valuations established for items (a)1i through iv above shall be converted into United States dollars at rates shown in the Wall Street Journal on the valuation date, or those established by a recognized pricing service.

Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Citations corrected.

Amended by R.1991 d.390, effective August 5, 1991.
See: 23 N.J.R. 1777(b), 23 N.J.R. 2345(b).

In (b), added "or those established by a recognized pricing service".

17:16-67.9 Admission date

(a) No admission to or withdrawal from the Common Fund shall be permitted except on the basis of the principal unit value determined as described in N.J.A.C. 17:16-67.8 and no participation shall be admitted to or withdrawn from the Common Fund except on a valuation date or within 15 days thereafter, however, in the event that an admission or withdrawal occurs within the 15 day period aforementioned, it shall be based upon the principal value as of the last valuation date preceding said admission or withdrawal.

(b) All admissions or withdrawals shall be made by cash payments or in kind. The price for purchasing units, except for original units issued by the Common Fund, shall be the principal valuation per unit as determined on each valuation date pursuant to N.J.A.C. 17:16-67.8. Dividends and interest earned shall be retained within the Common Fund, but may be distributed in whole or in part to the participatory pension funds, at the direction of the State Investment Council.

Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Citations corrected.

17:16-67.10 Amendments

This subchapter may be amended from time to time by the State Investment Council. Any amendment adopted by the council shall be binding upon all participating trusts and beneficiaries thereof. An amendment shall become effective on the date the adoption notice is published in the New Jersey Register. The State Investment Council may, at its discretion, postpone the effectiveness of any amendment by including an operative date in the adoption notice.

Recodified by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Effective date and operative date provisions added.

17:16-67.11 Distribution of realized appreciation

(a) Subsequent to the receipt of audited financial statements for the prior fiscal year, the State Investment Council may consider the realized appreciation in the Common Fund per unit. The Council may, in its sole discretion, choose any or all of the following options:

1. Declare as income to the participating funds such percentage of said realized appreciation of principal as it may deem prudent. When such declaration is made, the percentage of such appreciation of principal declared to be income shall be deducted from the total principal in the Common Fund and added to income in the Common Fund prior to the next regular monthly valuation. Following such declaration, the amount declared as income shall be treated and distributed as income to the participating funds monthly or quarterly in cash and/or units;

2. Declare as capital gains to the participating funds such percentage of said realized appreciation of principal as it may deem prudent. When such declaration is made, the percentage of such appreciation of principal declared shall be deducted from the total principal in the Common Fund and distributed monthly or quarterly in cash and/or units; and/or

3. Retain any or all realized appreciation for future investments within the Common Fund.

Amended by R.1994 d.328, effective July 5, 1994.

See: 26 N.J.R. 1772(b), 26 N.J.R. 2798(d).

17:16-67.12 Limitations

(a) The Common Pension Fund D shall be permitted to invest in the Cash Management Fund and in such securities subject to the limitations and conditions contained in the rules of the State Investment Council, particularly N.J.A.C. 17:16-20, 44 and 81, except for the conditions as to classification of funds contained in N.J.A.C. 17:16-3.

(b) In the event that any rule contains a limitation of the assets of any pension and annuity group fund which may be invested either in one issue or a class of issues, that limitation shall be construed to apply to the combined assets of all of the pension funds and shall not restrict the total common pension fund investment in such asset or assets to those

limitations for any individual pension fund. Not more than 15 percent of the market value of the assets of any pension and annuity group fund shall be represented by the market value of international common and preferred stocks and securities convertible into common stock as permitted by N.J.A.C. 17:16-41, together with the market value of international government and agency obligations, as permitted by N.J.A.C. 17:16-20, whether held directly by such pension fund or through Common Pension Fund D.

Recodified by R.1991 d.274, effective June 3, 1991.
See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Citations corrected.

Amended by R.1991 d.390, effective August 5, 1991.
See: 23 N.J.R. 1777(b), 23 N.J.R. 2345(b).

In (b), increased from 5 to 15 percent of market value amount that may be represented by international and preferred stocks and convertible securities.

17:16-67.13 Liquidation

The Director, Division of Investment, subject to the approval of the State Investment Council and the State Treasurer, may, upon two months' notice, liquidate the aforementioned Common Fund. In the event of such liquidation, the owners of the units shall share proportionately, according to units owned, in each investment held by the Common Fund. When such proportionate distribution is impracticable in the judgment of the Director, he or she may instead distribute on liquidation, cash or temporary investments held by the Common Fund. Distribution upon liquidation shall occur within 15 days after the valuation date and shall be based upon the principal value per unit determined upon such valuation date. No liquidation will be effectuated without the approval by the State Investment Council of a plan of distribution of the assets of the Common Fund.

SUBCHAPTERS 68 THROUGH 70. (RESERVED)

SUBCHAPTER 71. REAL ESTATE EQUITY

Authority

N.J.S.A. 52:18A-91.

Source and Effective Date

R.1983 d.473, effective November 7, 1983.
See: 15 N.J.R. 1457(b), 15 N.J.R. 1871(d).

Subchapter Historical Note

Subchapter 71, Real Estate Equity, was recodified from Subchapter 45 by R.1991 d.274, effective June 3, 1991.

17:16-71.1 Permissible investment for pension and annuity group

(a) The Director may invest the moneys of any pension and annuity fund, with the exception of the Consolidated Police and Firemen's Pension Fund, in real estate equity in any of the following ways:

1. Participation in pooled equity real estate funds, including pools holding participating mortgages, is permissible provided:

i. The Director shall submit a list of such pools to the Council for its approval under (a)1 above. Such list may be amended or enlarged from time to time subject to the Council's approval and shall be designed as "The Approval List of Real Estate Equity Investment Pools".

ii. The Director may not purchase more than 10 percent of the units of participation in such pool.

iii. The sponsor of the pool has a record of managing real estate pooled investments aggregating at least \$500 million in each of the last five years prior to purchase.

2. Participation in special pooled equity real estate investment is permissible, subject to the provision that the Division may not purchase more than 50 percent of the units of participation in such a special pool, and further provided that such special pool shall be established under the following terms and conditions:

i. The plan sponsor has a record of managing at least \$500 million of equity real estate in each of the last five years prior to purchase and has a demonstrated capacity for real estate property management.

ii. The fund shall own at least 29 percent of any property owned by the fund.

iii. The properties owned by the fund shall be developed and substantially leased and shall consist of office buildings, shopping centers or hotels and, after the initial two years of the pool's operation the appraised value of such class of property, at the time of any purchase of a property, may not exceed 60 percent of the appraised value of all properties in the pool.

iv. After the initial three years of the operation of the pool, no more than 50 percent of the book value of properties held by the fund can be in any one region of the United States, such regions being defined as (1) New England, New York, New Jersey, Pennsylvania, Ohio and Delaware; (2) Minnesota, Wisconsin, Illinois, Kentucky, Indiana, West Virginia and Michigan; (3) Virginia, Louisiana, and all states south of Kentucky and east of the Mississippi River; (4) California, Arizona, New Mexico, Texas, Oklahoma, Arkansas, Nevada and Hawaii, and (5) all other states.

v. No property in the pool may assume a mortgage in excess of 67 percent of the purchase price, and any mortgage assumed must have a fixed interest rate, provide no recourse to the equity holder and have no equity or escalation features.

vi. The pool shall pay an annual cash return to the plan participants equal to at least six and one-half percent of the aggregate book value of the units of participation in the pool.

vii. No individual real estate investment in the pool can exceed the greater of \$75 million or 20 percent of the book value of the fund and no single investment shall be less than \$10 million.

viii. Any investor in the pool may request liquidation after three years of existence of the pool of up to 25 percent of his total investment upon six months' notice and the pool sponsor will use his best efforts to honor the request. Any investor may mandate liquidation of up to 25 percent of his maximum aggregate investment upon 18 months' notice after three years of existence of the pool.

ix. Investors holding at least two-thirds of the units of participation in the fund may liquidate the fund upon five years notice.

x. The fund sponsor shall be engaged initially for five years, after which the holders of two-thirds of the units of participation in the fund may change the investment manager of the fund upon six months notice. Upon an event of default by the sponsor, the holders of one-third of the units of participation in the fund may dismiss the investment manager of the pool at any time.

xi. The fund sponsor shall pay the expenses of counsel for the purchasers, who shall be selected by investors holding a majority of the units of participation.

xii. The Director shall submit a list of such special pools to the Council for an appraisal under this paragraph. Such list may be amended or enlarged from time to time subject to the Council's approval, and shall be designated as "The Approved List of Special Real Estate Equity Pools".

3. Participation in real estate ventures consisting of commercial property, including office buildings, warehouses, and shopping centers, provided:

i. The value of the real estate venture is at least \$150 million, and the Director has received an independent appraisal of the venture's value at the time of purchase.

ii. The investment is recommended by the Director and approved by the Council.

iii. Participation may consist of up to 51 percent of the equity in the venture or up to 25 percent of the venture's senior non-subordinated debt, provided that the debt contains equity characteristics consisting of cash and/or equity ownership/participation.

Recodified by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Definition of eligible investment and level of ownership amended.

17:16-71.2 Market appraisals

The sponsor of any real estate pools or buildings purchased under N.J.A.C. 17:16-45.1 shall provide the Division of Investment independent market appraisals for all properties, on an annual basis; and shall provide annual independently audited financial statements for such pools or buildings.

17:16-71.3 Limit on investment

The aggregate book value of real estate investment under this subchapter, for any eligible pension fund, shall not exceed 10 percent of the book value of all assets of such pension fund.

SUBCHAPTERS 72 THROUGH 80. (RESERVED)

SUBCHAPTER 81. PURCHASE AND SALE OF INTERNATIONAL CURRENCY

Authority

N.J.S.A. 52:18A-91.

Source and Effective Date

R.1990 d.7, effective January 2, 1990.
See: 21 N.J.R. 3262(a), 22 N.J.R. 60(b).

Subchapter Historical Note

Subchapter 81, Purchase and Sale of International Currency, was recodified from Subchapter 49 by R.1991 d.274, effective June 3, 1991.

17:16-81.1 Permissible investments

Subject to the limitations contained in this subchapter, the Director may enter into foreign exchange contracts for the currency of any of the countries listed on the Approved List of International Government and Agency Obligations Bonds or any other currency in which the obligations of those countries on the Approved List are denominated.

17:16-81.2 Limitations

(a) The following limitation applies to those investments permitted under N.J.A.C. 17:16-81.1:

1. The foreign exchange contract must be for the purpose of hedging the international portfolio.

Recodified by R.1991 d.274, effective June 3, 1991.

See: 23 N.J.R. 983(a), 23 N.J.R. 1800(b).

Citations corrected.

Amended by R.1991 d.391, effective August 5, 1991.

See: 23 N.J.R. 1778(a), 23 N.J.R. 2345(c).

In (a) deleted 2 requiring 75 percent of portfolio be hedged.

17:16-81.3 Definitions

The following words and terms as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Foreign exchange contracts” means forward contracts, to sell or buy a specified amount of a specified foreign currency at a rate fixed at the time of the transaction but with delivery at a specified future time, entered into with any U.S.-Canadian-chartered commercial bank having total assets of at least \$2,000,000,000 or its equivalent in Canadian dollars (qualified bank); any U.S. broker-dealer (or subsidiary or affiliate thereof) having a net capital of at least \$100,000,000 (qualified broker); or any other foreign exchange counterparty approved by the State Investment Council.

“Hedging” means combining a long position in an asset with a short position in the hedging instrument in order to offset fluctuations in the value of the underlying asset.